

STATE OF CALIFORNIA
MEETING OF THE
CALIFORNIA INSPECTION & MAINTENANCE REVIEW
COMMITTEE

Tuesday, March 27, 2007
California Environmental Protection Agency
1001 I Street, Coastal Hearing Room, Second Floor
Sacramento, California

1 **MEMBERS PRESENT:**

2 JUDITH LAMARE, Acting Chair

3 DENNIS DECOTA

4 ELDON HEASTON

5 JOHN HISSERICH

6 BRUCE HOTCHKISS

7 ROGER NICKEY

8 JEFFREY WILLIAMS

9 GIDEON KRACOV

10 Al "SKIP" SOLORZANO

11
12 **MEMBERS ABSENT:**

13 PAUL ARNEY

14
15 **ALSO PRESENT:**

16 ROCKY CARLISLE, Executive Officer

17 STEVE GOULD, IMRC Consultant

18 JANET BAKER, Administrative Staff

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P R O C E E D I N G S

CHAIR LAMARE: Good morning, I'm Jude Lamare, Acting Chair of the California Inspection and Maintenance Review Committee, and I'm calling to order the meeting for Tuesday, March 27th. I know that Mr. Hisserich is here and will respond to roll call. He just happens to be out of the room at the moment. Can we begin introductions from my left? Mr. Heaston?

MEMBER HEASTON: Eldon Heaston, Air Pollution Control Officer.

MEMBER NICKEY: Roger Nickey.

MEMBER WILLIAMS: Jeffrey Williams.

MEMBER KRACOV: Gideon Kracov.

MEMBER HOTCHKISS: Bruce Hotchkiss.

CHAIR LAMARE: Thank you. Thank you, Members.

--oOo--

CHAIR LAMARE: Let's turn to the minutes from our last meeting which are under Tab 1. In reviewing the minutes, does anyone see a problem or something they want to change? Jeffrey?

MEMBER WILLIAMS: In the discussions, point three, I suggest the word 'to' be put in before 'Clean Air Now.'

CHAIR LAMARE: I'm looking at motions and you're looking at discussions and - oh, Mr. Doug Lawson, the consultant to Clean Air Now. Okay, edit. Any other edits? Thank you for catching that. A record number of motions, six motions.

1 What's the pleasure of the Committee on the minutes?

2 MEMBER HOTCHKISS: I move that we accept the minutes as amended.

3 CHAIR LAMARE: Moved by Hotchkiss.

4 MEMBER WILLIAMS: I'll second that.

5 CHAIR LAMARE: Seconded by Williams that we adopt the minutes as
6 amended. All those in favor?

7 ALL MEMBERS: Aye.

8 CHAIR LAMARE: Anyone opposed? Anyone abstained? All right,
9 minutes are adopted.

10 --oOo--

11 CHAIR LAMARE: Now we would like to proceed with the BAR/ARB

12 Update. I noticed that Chief Mehl is here, perhaps she
13 wants to address us. And thank you for coming.

14 MS. MEHL: Well, I feel like I was just here. Time goes by very
15 quickly. A couple of things, we are moving forward on the
16 new BAR analyzer. We are working with the engineers and
17 looking at Department of Finance requirements and all the
18 oversight requirements, meeting with the Department of
19 Consumer Affairs, as well as Agency, in presenting them the
20 ideas, so we are definitely getting ready to move forward
21 with that. The RFP for our public relations outreach is
22 about to be awarded. We anticipate a protest on that, so
23 unfortunately it will be a little bit longer before we have
24 our PR contract in place, but we are using up the monies
25 that we have left over from this current PR campaign, so we

1 will be doing a little bit of a splash on the Breathe Easier
2 to get people to retire their vehicles or repair their
3 vehicles through our programs. So those are programs that
4 are moving forward. Any questions? We spoke at the South
5 Coast Forum, that was I think an excellent event and brought
6 a lot of ideas to the forefront.

7 CHAIR LAMARE: And thank you for being there. That was fun to
8 have that kind of forum in Los Angeles and I want to thank
9 the South Coast for doing that. A couple of things came
10 up - are there other questions for Chief Mehl? Maybe I'll
11 let the Committee Members proceed.

12 MEMBER WILLIAMS: I'm just curious what a protest is.

13 MS. MEHL: Oh, when a company isn't awarded the bid, they have
14 the option to protest why they were not awarded the bid
15 through the Department of General Services and that's the
16 resolved, hopefully, at the Department of General Services.

17 CHAIR LAMARE: Other questions for Chief Mehl? Something came
18 up last week in which someone asked about the emission
19 reduction benefits of the Bureau's Clean Car Performance
20 Program and I recall that at some public forum, and I don't
21 recall exactly when and where, I thought there was a
22 presentation about the emission benefits. Now this is your
23 program where you go to help out low-performing stations to
24 do better testing and also fix what's wrong and get good
25 repairs. Could we get a report back? Do you have that on

1 the tip of your tongue or could we get information back
2 about those emission benefits?

3 CHIEF MEHL: Well, I'm not sure that they are actually
4 calculating those because I don't believe we get any credit
5 for education. So really what we're doing is going out and
6 educating people, but my understanding is we don't receive
7 any additional credits for doing education.

8 CHAIR LAMARE: But I was referring to the Clean Car Performance
9 Program that you're working with the stations on.

10 CHIEF MEHL: Yes.

11 CHAIR LAMARE: That's classified as an education program?

12 CHIEF MEHL: That's my understanding, but I will check with ARB
13 and see if we can squeeze something out of there. I think
14 it's a tremendous benefit and I think as long as we can show
15 that there's a difference between the stations' performance
16 before and after the education, but they're going to argue
17 that we're getting the credits anyway because we're showing
18 the emissions through the VID system. So I think that's
19 what they're going to send back to me is, it's all well and
20 good that you're doing the education, but you are getting
21 credit for the emissions because it's coming through the
22 system.

23 CHAIR LAMARE: Right. And then the other issue was our
24 Committee has been interested in a couple of other things
25 you're doing that we're waiting for your formal reports on.

1 One is the benefits of the car scrappage program last year
2 or in your last fiscal year, how many cars were scrapped and
3 what were the air quality benefits and who were the folks
4 that were - you have a really great survey of participants
5 that we saw maybe a year ago, and so we're just kind of
6 waiting for that to become official from last year and would
7 like to see what your assessment is on that because it was a
8 big year for you.

9 CHIEF MEHL: Yes, we do have that. We scrapped over 15,000
10 cars, so we have that information. I don't know why you
11 don't have it. We may not have all the detail that you
12 want. We just changed managers in the CAP Program, we have
13 a new manager, Tanya Blood, who just started with the
14 program is very familiar with the Department of Consumer
15 Affairs and has been their labor relations person for many
16 years and currently ran the program over the hearing aide
17 dispensers, so we're excited to have Tanya there. Mike
18 Lafferty has moved on to the outreach portion of Department
19 of Consumer Affairs for BAR, so we're also very excited
20 about that change as well. If you just requested it, it may
21 have gotten lost in the transition, but, Rocky, we'll get
22 that information to you.

23 CHAIR LAMARE: Circle back to that one and then the other that
24 we're pending, and I'm sure Rocky has been bugging everyone,
25 on when we will get the presentation on the RSD study that

1 you've completed and that you're finalizing.

2 MS. MEHL: Yes, I think that's a joint presentation with ARB.

3 CHAIR LAMARE: Yes. And I recognize Mr. Nickey.

4 MEMBER NICKEY: Has there been anything - thoughts about
5 relaxing - since the scrappage works so well, is there
6 anything about relaxing some of the requirements? For
7 instance, the customer has to own the car for two years or
8 whatever the requirement is, it has to be on renewal,
9 etcetera, etcetera?

10 MS. MEHL: Yes, we actually have a regulation package that's
11 moving forward that will be going through the preapproval -
12 or that has been through the preapproval process to allow
13 the - right now it's 120 days from the date of the Smog
14 Check renewal that they have to get into the program and
15 give up their car during that timeframe, or at least apply
16 during that timeframe, and we want to move that out to 180
17 days. We've identified that a large portion of the cars
18 that are being denied are actually falling between a 150-
19 and 180-day timeframe, so we think we can pick up quite a
20 few cars by relaxing that portion of it. So we're moving
21 forward with those regulations to do that.

22 CHAIR LAMARE: Any other questions for Chief Mehl?

23 MS. MEHL: We did talk to ARB about that, relaxing that
24 particular part. They didn't have an issue with that, but
25 they would have an issue with the two years because they

1 want to make sure that people aren't just purchasing cars in
2 other states and driving them in to scrap them, so that
3 would be a concern if it was less than a two-year.

4 CHAIR LAMARE: Thank you, Chief Mehl.

5 --oOo--

6 CHAIR LAMARE: And who is representing ARB today? It's John
7 Kato.

8 MR. KATO: Thank you, it's always a pleasure to fill in for
9 James. He definitely owes me on this one. I think he
10 realizes that with his new duties at the Air Resources
11 Board, everyone wants a piece of James, so he's getting
12 pretty taxed and earning his keep, so that's good. He did
13 want me to definitely emphasize his appreciation for his
14 opportunity to participate in your roundtable discussion
15 with South Coast. He wanted me to especially say thank you,
16 Jude, for a wonderful opportunity there and he appreciates
17 that, and any future opportunities he definitely welcomes to
18 be a part of it.

19 CHAIR LAMARE: Thank you. I think the thanks are due to the
20 South Coast Air District.

21 MR. KATO: Of course.

22 CHAIR LAMARE: And Dean Saito is here.

23 MR. KATO: There's two other things that James wanted me to
24 bring up and one is that ERG is finalizing the RSD report
25 and it should be complete very soon and BAR and ARB will

1 release this for public comment and peer review. And he
2 wanted to point out the review is a Cal EPA peer review
3 process which is under contract through the UC system and
4 the selection and review process is complete and independent
5 in order to ensure that the integrity of their review is
6 sound. So he wanted to add that on there. Also, he wanted
7 to mention that there are three more SIP workshops in place.
8 One is April 5th here in Sacramento, 8:30 to 12:30. The
9 second one is April 10th in San Joaquin Valley Air District
10 in Fresno, and right now the last one is scheduled for April
11 25th, but that may be moved to April 12th, but that should be
12 updated fairly soon. And I'll give this to Rocky so he can
13 pass this on. And I just also wanted to add that we've
14 received South Coast's final HEROS plan for their program
15 and it looks like it's in very good shape, so we're very
16 happy with that and we're looking forward to seeing some
17 good data results flowing in and seeing better decisions in
18 the future.

19 CHAIR LAMARE: And when will your Board be considering the South
20 Coast SIP?

21 MR. KATO: Oh, I'm not sure when that one will be.

22 CHAIR LAMARE: We'll ask Mr. Saito to address that. Thank you.

23 Any questions for John? Thank you for being here. I really
24 appreciate it.

25 MR. KATO: Thank you.

1 CHAIR LAMARE: Now, am I required to have public comment on the
2 BAR/ARB report?

3 MALE: Actually, that's part of what I'm talking about is the
4 Open Meetings Act and actually the Open Meetings Act does
5 require that you allow public comment for each agenda item,
6 so you are allowed to have public comment.

7 CHAIR LAMARE: Okay, will there be any public comment on the
8 ARB/BAR update? I see no - oh, Randy, Randy Ward.

9 MR. WARD: Good morning, Madam Chair and Members, Randall Ward,
10 Executive Director of the California Emissions Testing
11 Industries Association. Just a quick question for ARB - and
12 I thought someone would ask it - is what is the status of
13 the Sierra Research effort?

14 CHAIR LAMARE: Okay, Mr. Kato, what is the status of the Sierra
15 Research Smog Check evaluation effort?

16 MR. KATO: That one - unfortunately, I'll have to get back to
17 you on that to give you a more detailed response.

18 CHAIR LAMARE: Thank you. And Mr. Saito from the South Coast
19 Air Quality Management District?

20 MR. SAITO: Good morning. Just a point of clarification that
21 when BAR talks about their scrappage program, that's
22 embedded within their compliance assistant program and the
23 benefits of that is taken as part of the Smog Check
24 reductions. Air Districts often have their own scrap
25 program that's separate from the BAR's scrap program and

1 those reductions are creditable to the SIP, either through
2 the Moyer Program or through other funding mechanisms. And,
3 therefore, they have to often live by different guidelines
4 than what BAR's scrap program lives by. So I just point out
5 that even though BAR may change their own guidance for their
6 compliance assistance program, that does not necessarily
7 reflect over to air districts' scrap program because they're
8 following guidance from ARB. So there is a distinction
9 between the two programs and I would point out that one
10 thing that we didn't go over at last week's forum was how is
11 the Consumer Assistance Program - how are those benefits
12 taken into account as part of the Smog Check Program and I
13 think that's a whole different set of assumptions embedded
14 within the EMFAC model that could be a topic for discussion.
15 Thank you.

16 CHAIR LAMARE: Thank you. Other questions on this topic? Other
17 public comment on this topic? Okay. Before we do move on
18 to the next item, I wanted to point out that this is a
19 webcast and, Rocky, for anyone on the webcast, how would
20 people make questions or comments to participate in the
21 public process?

22 MR. CARLISLE: If they would like to make a comment or ask a
23 question, they can email me and my email is Rocky,
24 R-O-C-K-Y, underscore, Carlisle, C-A-R-L-I-S-L-E, at
25 dca.ca.gov.

1 --oOo--

2 CHAIR LAMARE: Thank you. And I'd like to recognize that we
3 have both Dr. Hisserich and Dennis DeCota joining us for the
4 meeting, so we're doing really well with our participation
5 by the Committee Members and thank you all for being here.
6 I recall that at our last meeting, we had some questions
7 about how the meeting was conducted with respect to public
8 participation and our Executive Officer wisely engaged the
9 DCA legal counsel that's assigned to our Committee to come
10 and work with us today on what are the requirements, the
11 procedures, what is the Open Meeting Act and, Rocky, I'm
12 going to turn this over to you then.

13 MR. CARLISLE: Thank you, Madam Chair. There was quite a few
14 questions at the last meeting with regard to what are the
15 procedures, what's our authority with regard to the statute,
16 specifically 44021 of the Health and Safety Code. And so I
17 did invite Don Chang to attend the meeting today and
18 basically have an open forum with the Committee so you could
19 ask questions directly of legal counsel and resolve any
20 concerns that you may or may not have.

21 CHAIR LAMARE: Great. So you have set this up more in terms of
22 Committee-generated questions or did you ask Mr. Chang to
23 make a presentation?

24 MR. CARLISLE: I basically submitted a number of questions that
25 several Committee Members had asked.

1 CHAIR LAMARE: Can we go through those questions then?

2 MR. CHANG: Sure. Good morning, my name is Don Chang.

3 CHAIR LAMARE: Welcome.

4 MR. CHANG: Thank you. And Rocky gave me a number of questions
5 and let's start with perhaps the Open Meetings questions.

6 The first question relates to - well, let's start off with
7 the Open Meetings Act. As a State agency, you are governed
8 by the Open Meetings Act, which is Bagley-Keene Open
9 Meetings Act. It's somewhat different than the Brown
10 Meeting Act. The Brown pertains to local government,
11 Bagley-Keene pertains to State government. Essentially,
12 they're going to be about 90 to 95 percent similar with
13 regard to their requirements. Typically, the Bagley-Keene
14 Act requires that a meeting is going to be whenever there is
15 a quorum of a board getting together, either in one place to
16 discuss business or serially, that is by basically using
17 telecommunication devices, a personal intermediary to
18 basically pass information among the majority of those
19 members. So whenever that occurs, you really need to have
20 that meeting to be noticed. And again, the purpose of the
21 Open Meetings Act is to allow the public to observe and
22 comment on your deliberations. And that will be the guiding
23 force when in doubt as to whether or not you should be doing
24 something. Is this something which the public should have a
25 right to observe, you doing your deliberations on? So to

1 the extent that you have a specifically authorized
2 committee, that, too, would have to be noticed for the
3 public to have an opportunity to observe and discuss. Also
4 as part of the Public Meetings Act is the public, as part of
5 that, has a right to comment on every agenda item, either
6 before or during the discussion of that item. And you are
7 allowed, however, to place reasonable restrictions on the
8 length of time which they can comment. And I believe that
9 you do that currently, but you are allowed to do it for
10 every agenda item. What some boards have done is they've
11 said - some boards, typically, when they do just strategic
12 planning, they will allow the public to comment only in the
13 beginning aspect of it and so that way thereafter the board
14 can basically kind of focus on their own strategic plans
15 without kind of interruptions from the public. But with
16 regard to a regular, traditional committee meeting such as
17 what you have here, where you have specific agenda items, it
18 really does make more sense to allow the public to comment
19 at the time the agenda items are being discussed.
20 Otherwise, the argument is that they make a comment, but it
21 may not address particular items which may come up in the
22 course of discussion. Typically, what you may want to do is
23 have the discussion just prior to or just after you commit
24 your discussion so you can hear from the public. Let's go
25 the questions themselves. One of the questions -

1 CHAIR LAMARE: Oh, excuse me.

2 MR. CHANG: Sure.

3 CHAIR LAMARE: We do have a clarification.

4 MEMBER KRACOV: I have a question on Open Meeting, but maybe

5 I've been - this is Gideon Kracov. I had a question on the
6 Open Meeting issue, but if you have particular questions
7 that were addressed to that topic, why don't you go through
8 those and if it's not answered, then I can ask you.

9 MR. CHANG: Okay, sure. One question was they wanted

10 clarification on issues of committee size and serial
11 meetings in the context of the Committee having ten sworn
12 members. And the question was, "Given our size, what is the
13 quorum, and how many for a serial meeting?" With respect to
14 that, your statute provides that this is a 13-member
15 committee, so a quorum would be, under your statute, seven
16 members. So as long as you had seven members, you would
17 have a quorum of this Committee and you could take action of
18 that. And a majority of those people present, if you have
19 seven or more, is enough to carry action. However, with
20 respect to the Open Meetings Act, I think there's a slight
21 difference there because there they say that a meeting is
22 whenever there is a majority of the board present. And
23 again, keeping in mind that the purpose of the Open Meetings
24 Act is to allow the public to observe your deliberations.
25 To the extent that you have current I believe ten members, a

1 majority of the ten members would be six as opposed to your
2 statutory composition, which is seven. I think for purposes
3 of whether or not you have a serial meeting or a gathering
4 that has to be noticed, the intent of the law is to take the
5 smaller number for determining if you have a serial meeting
6 subject to the Open Meetings Act. That is, to the extent
7 that you have six members basically kind of talking together
8 about something within the jurisdiction of this Committee, I
9 think that's something which would constitute a meeting
10 within the Open Meetings Act that would have to be noticed.
11 So in this instance, it's a lesser number than your
12 statutory definition of what is a quorum, but, again, I
13 think it's consistent with the intent of the Open Meetings
14 Act that you don't want six members getting together which
15 effectively could take action, could meet without it being
16 noticed, and then effecting a collective decision having
17 been made and just kind of slam the decision through at an
18 open meeting. I think for purposes of the Open Meetings
19 Act, it's a majority of those currently appointed as opposed
20 to a majority of the statutory committee. Those were the
21 only two questions I had about the Public Meetings Act, so
22 if you have any more questions in particular about public
23 meetings, I can answer those now.

24 CHAIR LAMARE: Gideon?

25 MEMBER KRACOV: Yes, at the local level, one of the things that

1 I've seen done is the use of speaker cards so that persons,
2 when they first enter the room where the meeting is being
3 held are aware that there are speaker cards that they are
4 required to fill out and they also are given the opportunity
5 to put an agenda item for those speaker cards. As a result,
6 as the meeting goes forward, only those persons that
7 provided speaker cards for a particular agenda item are able
8 to testify on that or comment on that particular agenda
9 item, but only again, if they put the speaker card in ahead
10 of time. If they missed out, if they wished that they had
11 the opportunity to do that or if they want to speak about a
12 general item, they can speak at the public comment at the
13 end of the meeting. I've seen that - without saying whether
14 I favor it or not, I have seen that used as a way to sort of
15 make these local meetings more efficient and I'm wondering
16 what you think of that notion in light of Bagley-Keene.

17 MR. CHANG: Well, speaking from personal experience with respect
18 to the different licensing boards and Department of Consumer
19 Affairs, some of them will use speaker cards, but they
20 always still allow the opportunity for public comment at the
21 same time when the agenda item comes up for those who may
22 not have filled out a speaker card. I think that's more in
23 the spirit of the Open Meetings Act which basically requires
24 that the public have a right to comment either before or
25 during the discussion of each agenda item. And I think it

1 kind of defeats the purpose if you're saying, well, you
2 showed up a little bit late, you didn't get your speaker
3 card in time, but we'll let you speak at the public comment
4 period at the end. That I think defeats the purpose of
5 letting them speak before the body makes their - does their
6 deliberations and actually takes action. So I kind of favor
7 a more liberal approach of allowing public comment, even if
8 they haven't submitted the speaker card.

9 CHAIR LAMARE: Rocky?

10 MR. CARLISLE: I had a question with regard to a quorum; for
11 example, a subcommittee. Typically we have two Members on a
12 subcommittee. Would it be permissible to have three or
13 maybe four as long as we maintain less than a quorum of the
14 currently appointed Committee Members?

15 MR. CHANG: Sure. With respect to subcommittees, if you have -
16 the Open Meetings Act provides that if you have a committee
17 of less than three, you do not have to notice that meeting.
18 However, if you have a subcommittee of three or more, that
19 does have to be noticed. So again, you would have to still
20 do a ten-day notice and as long as it's less than basically
21 your quorum, then you could characterize it as a
22 subcommittee, as opposed to a committee. But once you get
23 above three or more in that subcommittee, it needs to be
24 subject to that same ten-day notice period.

25 CHAIR LAMARE: Dr. Hisserich?

1 MEMBER HISSERICH: John Hisserich, yes, when you say a comment
2 on each agendized item, if it's an item that we're not going
3 to take action on, simply an update or a report so that this
4 Committee is - as I say, is not taking action, do we then
5 have to have a full public comment on the fact that somebody
6 just spoke to us, because that sometimes does drag on quite
7 a bit.

8 MR. CHANG: Yes, well, regretfully, I believe you do because,
9 again, the law does say you do have to allow comment on each
10 agenda item before the committee. So to the extent that
11 it's just an information item, it still is before you and
12 again, I think you need to allow for public comment.

13 CHAIR LAMARE: Mr. Heaston?

14 MEMBER HEASTON: Just looking, do you have a copy of the agenda
15 that we have right here?

16 MR. CHANG: Yes, I do.

17 MEMBER HEASTON: I guess what I'm thinking about is like on Item
18 4 and 7 where we have several things, like on 4 you have
19 Board Procedures, Open Meeting Act, like what we're talking
20 about right now. Would it be permissible to go through each
21 one of those and only take comment at the end of all of
22 that, or in 7 be able to go through A through G and then ask
23 for public comment at that point?

24 MR. CHANG: Sure, I think you can do that so long as you're not
25 really taking - if you allow the public comment before you

1 take action. If you're just receiving information on - for
2 my items, Items A through C, you could allow public comment
3 afterwards because the key thing is that you don't want to
4 basically take action and then receive the public comment.

5 MEMBER HEASTON: Okay. And then just to follow-up on what
6 Rocky - when you were talking about the committees, it makes
7 sense now why two is the number that you were working with
8 was having the requirement to have a meeting, but you're
9 saying with three you would have to notice, so -

10 MR. CHANG: Yes, you would.

11 MEMBER HEASTON: - so with two, then Roger and I could - I could
12 fly up here and go by his shop and work with him on
13 something that we're doing, but with three we couldn't.
14 That's tough.

15 CHAIR LAMARE: Mr. DeCota?

16 MEMBER DECOTA: Good morning, Mr. Chang.

17 MR. CHANG: Good morning.

18 MEMBER DECOTA: Is it permissible or proper for the Committee to
19 make recommendations to the legislature on different
20 legislation that may encompass the Smog Check Program?

21 MR. CHANG: Okay, moving off Open Meetings and talking duties
22 and responsibilities.

23 CHAIR LAMARE: Oh, okay, let's hold then.

24 MR. CHANG: I can do that if you want -

25 CHAIR LAMARE: Hold off and we'll get to that topic.

1 MEMBER DECOTA: I'm sorry.

2 CHAIR LAMARE: Sorry, Dennis. Gideon? We're just talking about
3 the procedures now, not the duties.

4 MEMBER KRACOV: Because of the Bagley-Keene, the Committee
5 Members are very loath to have a lot of discussions in
6 between the meetings, but we do have contact with our
7 Executive Director between the meetings maybe about upcoming
8 agenda items, perhaps about subcommittees, other things. Do
9 you have any advice or guidance on sort of the permissible
10 contact with the Executive Officer with regard to future
11 agenda items and sort of what are the guidelines for him
12 when he's talking to different Committee Members about
13 upcoming business?

14 MR. CHANG: The serial meeting where you use a personal -

15 MEMBER KRACOV: Really the only way that - we don't have staff,
16 of course, he's our staff and he has to deal with all ten of
17 us.

18 MR. CHANG: And you're certainly free to - typically most boards
19 will contact the executive director or the president for
20 placing items on the agenda, and to the extent that you
21 contact your Executive Director and he just talks with the
22 president or one or two other members, that's fine. Where
23 you run afoul or you run close to violating the Open
24 Meetings Act is where you use the Executive Director or any
25 other single person as kind of like the hub of the spoke of

1 wheels. When information goes in, that information is then
2 relayed off to someone else, then it goes back in, it goes
3 relayed to someone else. It's like now I've got two people
4 say they're in agreement of this, he contacts a third person
5 and they say, yes, we're all in agreement, then he goes back
6 and goes out to a fourth person, now I have three people who
7 are in agreement - that's how you're forming, in effect, a
8 collective decision by a serial meeting. But to the extent
9 that you just basically, one or two of you just contact
10 Rocky and say, listen, we'd like to put this on the agenda,
11 what do you think, could you run it by Jude. That's not a
12 violation because, again, you're not forming a collective
13 decision, you're placing an item on the agenda. Also you
14 haven't gotten a majority, you haven't gotten a majority -
15 as long you're keeping it below, at this point, six, you're
16 okay. But again, you don't want to say, well, let's see if
17 we can get four and not push it over. You want to avoid
18 those types of practices. How do you normally set agendas?
19 Do you just normally contact Rocky and he contacts the
20 Chair?

21 CHAIR LAMARE: Yes.

22 MR. CHANG: There's no problem with that. Because, again, what
23 you're doing - you're not forming a collective decision.
24 You're basically just - also, he can provide you with
25 information. He can provide all you with information as

1 long as you don't arrive at a collective decision.

2 MEMBER KRACOV: Thank you, Counselor.

3 MR. CHANG: Okay.

4 CHAIR LAMARE: Dr. Williams?

5 MEMBER WILLIAMS: We voted to approve the minutes, that was an
6 agenda item. Should we have been taking public comment on
7 the minutes?

8 MR. CHANG: Yes, in theory you should have taken public comment
9 on that.

10 MEMBER WILLIAMS: Oh, dear.

11 MR. CHANG: Again, it went right by - I sit in these meetings
12 all the time and people approve minutes and it's usually
13 something you hear public comment about. Technically, you
14 could have received public comment on it. There are these
15 minor infractions which occur and, to the extent that
16 someone wanted to make public comment, you would recognize
17 them.

18 CHAIR LAMARE: So all of the DCA boards and commissions are
19 taking public comment on every agenda item?

20 MR. CHANG: That's correct.

21 CHAIR LAMARE: Thank you.

22 MR. CHANG: Except for closed-session items, but I don't believe
23 you do closed sessions here.

24 CHAIR LAMARE: Usually not. Is there another question on
25 procedures? I have one. It's been my experience that some

1 members of the public will come forward and repeat testimony
2 that they've made, even in that very session, sometimes in
3 prior sessions, and frequently this testimony is not on
4 point, it's also testimony that's been made repeatedly over
5 months, years. Am I in order to stop the testimony and
6 explain to the member of the public that they are not
7 addressing the agenda item?

8 MR. CHANG: Yes, you are. Again, the Open Meetings Act allows
9 you to place reasonable rules of procedure with respect to
10 receiving public comment. We have - when we do regulation
11 hearings, we do have statements which say that to the extent
12 that you agree with someone who has previously spoken, it's
13 sufficient if you basically just agree that you concur. To
14 the extent that you have written testimony, it's sufficient
15 if you just basically summarize it but don't read the whole
16 thing into the record. You can just provide us with copies.
17 You're allowed to do that. Again, public comment is to
18 allow them to comment, but it shouldn't be used as a means
19 for basically obstructing your business and you can propose
20 reasonable restrictions.

21 CHAIR LAMARE: Well, it troubles me if a member of the public is
22 brow-beating the Committee.

23 MR. CHANG: Well, brow-beating is one thing, but on the other
24 hand, the Open Meetings Act specifically allows - prohibits
25 a State agency from prohibiting public criticism of it.

1 They certainly have the right to do that, but to the extent
2 that it's brow-beating, public criticism, yes, to the extent
3 they're repeating comments over and over again, you can add
4 reasonable restrictions upon that. But public criticism,
5 that's the purpose of having a public meeting is to allow
6 the agency to receive public criticism.

7 CHAIR LAMARE: Have you reviewed our last meeting, the full
8 transcript?

9 MR. CHANG: No, I haven't.

10 CHAIR LAMARE: Okay. Apparently members of the public found
11 fault with my management of the meeting last time and I
12 haven't really ferreted out exactly what the issues were,
13 but I will come back to you. But, in general, I do recall
14 splitting a motion into two motions and asking the Committee
15 to address two different issues and I believe at that time I
16 did not take public testimony on the first issue which is
17 should this Committee take action, and the second part of
18 the motion was taking a specific action. So is that a
19 situation where regardless of the action you're taking that
20 you must take public comment on every action that you take,
21 even if it's simply procedural in nature?

22 MR. CHANG: I guess in theory, one could argue if it's an item
23 before the Board, public comment is allowed. Again, to err
24 on - without having been at that particular meeting and
25 looking at it from the abstract, I'm going to take the

1 position that, yes, you should have allowed comment. But
2 again, it varies depending upon the circumstances. Without
3 being there I can't -

4 CHAIR LAMARE: It's better to err on the side of inviting to
5 public to comment.

6 MR. CHANG: That's correct.

7 CHAIR LAMARE: Okay. And would you please provide the Committee
8 with the code section that requires public comment on every
9 agenda item as opposed to every action that the Committee
10 takes?

11 MR. CHANG: Sure, that actually is Government Code Section
12 11125.7, 11125.7.

13 CHAIR LAMARE: Other questions on procedures or comments? Okay,
14 Jeffrey Williams?

15 MEMBER WILLIAMS: I'm getting more confused.

16 MR. CHANG: It's probably my fault.

17 MEMBER WILLIAMS: No, no, no. It's not your fault at all. So
18 if we have an agenda item, say, as it was the last time, to
19 discuss sending some official letters, but then we made
20 motions within that agenda item after we had received public
21 comment on the entire broad category. Do you we have to -

22 MR. CHANG: No, no, and actually I see your point now.

23 CHAIR LAMARE: Thank you.

24 MR. CHANG: And I think I may have misspoken on there. I think
25 as long as you've allowed public comment on the agenda item,

1 I think that's fine. Again, the purpose of the Open
2 Meetings law is to allow for public comment on your agenda
3 items. With respect to your procedural matters as to how
4 you deal with that business, I don't believe you have to
5 allow for discussions on particular how you split motions.
6 But let me go back and check and make sure that I'm correct
7 on that because apparently this is a common issue and I'd
8 like to give you the correct answer.

9 CHAIR LAMARE: Thank you for clarifying that, Jeffrey.

10 MR. CHANG: Yes.

11 CHAIR LAMARE: That was part of the issue that - me knowing when
12 to call for the public comment within an agenda item is
13 probably part of having this all sorted out, so I'll work
14 with Rocky on that.

15 MEMBER DECOTA: I have one question.

16 CHAIR LAMARE: Another question from Mr. DeCota.

17 MEMBER DECOTA: How far in advance must a public or another
18 governmental entity notify the committee of an agenda item
19 to be scheduled on the agenda? Can they do it the night
20 before the meeting, can they do - it has to be 72 hours? Is
21 there anything that can guide us that way?

22 MR. CHANG: There is a requirement that State agencies provide
23 a - generally speaking, ten-days' notice of their meetings,
24 which must include the specific agenda items which are to be
25 discussed. So to the extent that this Board has requested

1 to be placed on another State agency's mailing list, they
2 should have given you at least ten-days' notice. There are
3 certain exceptions. There are some special meetings which
4 you have to give at least 48-hours' notice to the press on,
5 which is slightly shorter, and then there are emergency
6 meetings. But typically it's a ten-day notice period. Does
7 that answer your question?

8 MEMBER DECOTA: Almost.

9 MR. CHANG: Okay.

10 MEMBER DECOTA: Okay, what they're a nongovernmental body, but a
11 member of the public. How does that - and they want a
12 specific item discussed on the agenda. Have they the right
13 to petition the Executive Officer to place that on the
14 agenda and, if so, how long of a period of time do they have
15 to submit that?

16 MR. CHANG: Well, that's subject to really the board's own
17 procedure. We have an obligation to put our notice out at
18 least ten days prior to having a meeting. Is it realistic
19 that they give us basically ten and a half days' notice
20 saying we'd like to place it on the agenda, this goes back
21 to your staff. Is your staff capable of send the notice
22 out, putting it on the website, out in half a day? And also
23 with respect to that, typically whenever someone - a member
24 of the public wants something placed on the agenda that
25 normally goes through the executive director and the chair

1 to make that decision, so the public doesn't have a right to
2 just merely say, I want particular items and you have to do
3 that. That's left to the discretion of this Committee and
4 your Chair to do that because, again, you have specific
5 charges to do and in order for you to conduct your business
6 in an orderly fashion, you need to be able to set your
7 agendas and not be subject to basically the will of the
8 public. Ultimately it goes back to the Chair's discretion
9 as to whether or not that chair believes that that's
10 something which is relevant for this body to consider.

11 MEMBER DECOTA: Thank you.

12 CHAIR LAMARE: Okay, so we're ready to move on to the Open
13 Meetings Act, was that it?

14 MR. CHANG: Actually, I did that one already.

15 CHAIR LAMARE: Okay. Duties and responsibilities of IMRC and
16 then that's - we have a tab in our packet, Governing
17 statutes for the IMRC and the Mission Statement.

18 MR. CHANG: You have 44021, which is a fairly large statute
19 which kind of outlines what your duties and responsibilities
20 are, but essentially, your duties are fairly simple. The
21 statute says that the Committee shall be advisory in nature
22 and its primary function shall be to gather data, analyze
23 it, evaluate it, and then make recommendations to the
24 legislature and the Governor. And then the other portions
25 are basically protocols for how you're going to gather that

1 information. So, again, you're an advisory body and you
2 basically collect information, you come up with
3 recommendations and you make those recommendations to the
4 legislature for them to implement. Part of that
5 recommendation is also to come up with statutory language to
6 implement those recommendations.

7 CHAIR LAMARE: Are we being authorized to comment in the BAR
8 regulatory process?

9 MR. CHANG: Well, I think you can comment, but the question is
10 should you be taking position on this type of thing, on like
11 BAR regulations? Again, you're advisory, and I think that's
12 your jurisdiction. As advisory bodies, I don't think you
13 should be taking positions on bills. You can certainly
14 explain - to the extent that there's a proposal which has
15 been generated out of one of your recommendations, again, I
16 would say that you shouldn't take a position on that
17 because, again, the statute says you are advisory. However,
18 you can certainly go up there and testify as to what your
19 rationale was and why you came up with a particular
20 recommendation you did come up with in regard to the
21 legislature and the Governor. But again, I think that's
22 perfectly - again, you're advising them, you're giving them
23 background, you're helping them to understand what the
24 context was for the recommendation, but you haven't crossed
25 over into taking a position. Once you've taken a position,

1 you're no longer advisory. Again, you're statutory, you
2 have a very limited sort of scope here, but it's very clear
3 that your function is advisory. You're not like some of the
4 licensing boards which basically have specific jurisdiction
5 over particular professions over licensing. Here again,
6 you're advisory.

7 CHAIR LAMARE: Mr. Kracov?

8 MEMBER KRACOV: I understand what you're saying. I think we
9 need a little bit more clarification from you and I don't
10 see much of a difference between making a recommendation and
11 taking a position. To me, it's really sort of one and the
12 same. So for example, we take a position that we believe
13 that X, Y, and Z program changes are for the benefit of the
14 State. If we're not making some recommendations and
15 advancing positions, it seems to me that we're not doing
16 anything up here. I think you can still be advisory and
17 still take a position at the same time. That's certainly
18 with regard to legislation. We send out typically letters
19 on legislation that we support based on prior
20 recommendations that we have made in our reports. I think
21 we always try to tether what we're doing to what's in our
22 reports. But to me, our reports do contain certain
23 positions that this Committee has taken and I think those
24 positions are the same as the recommendations. I want to
25 know what you think about that. And there was a particular

1 question that the Chair, I think, asked. For example, in a
2 regulatory process, whether it's DMV, ARB, BAR, whoever it
3 is, can we make a recommendation on rules that are coming up
4 from those bodies?

5 MR. CHANG: Again, I look at the statute and I see it as - it
6 says the functions of the Review Committee shall be advisory
7 in nature. And again, you're advising - the advice you give
8 is in the form of the reports that you submit to the
9 legislature and to the Governor's office. And that's kind
10 of where I see that that's where your - if you say your
11 jurisdiction kind of ends at that point. I think you're
12 seeing that to the extent that your recommendations actually
13 go forth as some sort of a legislative proposal or there is
14 a regulatory proposal by BAR, which is relevant to what
15 you're doing, is it advisory? Again, you're just giving
16 them advice as to what that proposal is, consistent with the
17 position you may have taken. I frankly think that, again, I
18 see advisory as basically being advisory. You're giving
19 advice and your advice is to the legislature and that's kind
20 of the like the limits of your jurisdiction. And I think
21 that when you kind of take a specific position of oppose or
22 support a particular bill, you're no longer being advisory
23 to the legislature or to the Governor in that context.

24 MEMBER DECOTA: I don't understand that.

25 CHAIR LAMARE: Dennis?

1 MEMBER DECOTA: Well, I'm sorry. I mean, I don't - how do you
2 take and advise someone if you don't support or oppose a
3 certain issue within a regulation or within legislation as a
4 committee? Isn't that a statement of advice?

5 MR. CHANG: No, but, in fact, again, it goes back to what your
6 jurisdiction is and your jurisdiction is basically, gather,
7 evaluate, and make recommendations. It doesn't go further.
8 But, you don't have technical jurisdiction over the
9 regulation of smog repair. Those are other jurisdictions
10 that other agencies have. Can it be implied that you have
11 that authority? Again, I don't think it can be. I think
12 your purpose is kind of an advisory body. You're in a
13 unique situation where you don't have specific jurisdiction
14 over something. You're, in effect, a quasi - I guess a
15 think-tank of where you're basically gathering information
16 and making recommendations. You're evaluating these
17 different types of programs. I think you can be just as
18 effective by giving these other bodies the information which
19 led to your conclusions and why you think those conclusions
20 are appropriate without having to cross the line of saying
21 we oppose or support. When you do that, I think you open
22 yourselves up to possible attack that you've exceeded your
23 jurisdiction.

24 CHAIR LAMARE: Now, we have a number of requests to speak, so
25 we'll start with Mr. Nickey, then Dr. Hisserich.

1 MEMBER HISSERICH: I submitted a question regarding
2 correspondence; should I take that up now or wait?

3 CHAIR LAMARE: Let's see if there's - there seems to be a bunch
4 of things come up on this one, so if it's not related to
5 this discussion -

6 MEMBER HISSERICH: It is, but -

7 CHAIR LAMARE: Okay.

8 MEMBER NICKEY: My question is that if a letter is generated out
9 of the Executive Director's office either supporting or not
10 supporting a particular issue -

11 CHAIR LAMARE: A draft letter.

12 MEMBER NICKEY: A draft letter, okay, a draft letter - then
13 shouldn't everybody have a chance to look at it to make sure
14 it reflects what they actually took the position on for the
15 Committee? In other words, would you have to run a draft
16 letter by everybody that basically says here's what we - as
17 a consensus?

18 MR. CHANG: Typically not. Typically, your Executive Director
19 is an exempt employee. That is, exempt from the Civil
20 Service requirements and they serve at will. It's a
21 position of trust and confidence. So the Executive Director
22 is in effect your alter ego when you're not meeting as an
23 entity and when the Executive Director writes letters out, I
24 assume that those letters accurately reflect the position of
25 this Committee. And to that extent, I don't think it's

1 necessary that those letters have to be run past individual
2 members. Again, that's based upon the assumption that those
3 letters accurately reflect the position of this Committee.

4 CHAIR LAMARE: Just to elaborate here, as I recall, Roger, this
5 had to do with the fact that the Executive Director drafted
6 a letter for the Committee to approve as its next meeting
7 and, as I recall, Mr. Nickey did not believe that the
8 Executive Director should initiate an action to draft a
9 letter to present to the Committee, that the Executive
10 Director should only be drafting letters that he's directed
11 by a vote of the Committee to draft. Am I wrong, Roger?

12 MEMBER NICKEY: That was definitely part of it, but as a
13 courtesy?

14 CHAIR LAMARE: As a courtesy, everyone received the draft
15 letter.

16 MEMBER NICKEY: There's something wrong with -

17 MR. CHANG: No, there's nothing wrong with that because, again,
18 the Executive Director is charged with the day-to-day
19 administration of the office. Part of that administration
20 is that the Executive Director basically is aware of
21 everything - things which happen which affect this
22 Committee. And oftentimes, in order to assist you, they
23 will identify particular issues, provide suggested drafts to
24 you with regard to issues so that you're more efficient in
25 doing your business. That happens often. That's a common

1 practice for executive directors. Again, they do that in
2 order to assist you so that you're more efficient so that
3 you don't have to during a meeting kind of come up with a
4 draft or something like that. Again, it's a suggested
5 response on the behalf of the Committee, the Committee
6 always has the right to say we don't think this is
7 consistent with our approach, we don't want to send it out.
8 I don't have any problem with that, that type of approach.

9 MEMBER NICKEY: So as a courtesy, I could say if a draft is
10 going out, can we all look at it?

11 MR. CHANG: Again, that goes back to the Board's protocol. If
12 that's how you feel that you want to conduct your business
13 that you want - that all draft - all letters being sent out
14 of your office need a review by the Committee, you certainly
15 can do that, but I don't think it's an efficient way to
16 administer your office. That's a protocol thing that you
17 have to decide, how you want to operate your office.
18 Otherwise, you're going to be looking at every letter that
19 your Executive Director sends out there, which would delay
20 the processing of business for the Committee.

21 MEMBER NICKEY: I'm not so interested in having every letter
22 looked at, but when there's something of a controversial
23 nature or something that's - where action would be directed,
24 I just thought that if it's going to reflect the Committee's
25 feelings, then everybody should take a look at it.

1 CHAIR LAMARE: Well, just to clarify, I believe the letter you
2 were talking about was a draft that was prepared for the
3 Committee to look at, so I'm confused about the question.
4 In fact, as I recall, the draft was prepared for the
5 Committee to look at in its meeting, it was shown to me
6 before the meeting, and I said I would be more comfortable
7 if we let everybody on the Committee see this draft before
8 the Committee meeting so they're prepared to comment on it
9 at the meeting. And so as I recall, our procedures are that
10 if any letter of substance is to be sent, the Executive
11 Director is drafting the letter, giving it to the Chair, the
12 Chair is, in this case, asking the letter to go to all the
13 Committee Members before the letter is ever approved. I
14 know of no case in which our Executive Director sent out a
15 letter of any substance to anyone that this Committee did
16 not approve. So that's why I'm confused by the questions.
17 When was it that our Executive Director sent out a letter of
18 substance that we didn't review and comment on and approve?
19 And so there's a couple of - do you want to respond, Roger,
20 or hear -

21 MEMBER NICKEY: Yes.

22 CHAIR LAMARE: Okay.

23 MEMBER NICKEY: Well, I have both letters. I have the one
24 that's a draft and I have the one that was actually sent and
25 I think they're radically different.

1 CHAIR LAMARE: The draft letter that was sent out is different
2 than the letter the Committee approved at its last meeting.
3 And we do have the transcript of that whole discussion, so
4 maybe what we need to do is you and me and Rocky sit down
5 and go over this and see what is the issue.

6 MEMBER NICKEY: We could do that.

7 CHAIR LAMARE: And then bring it back to the Committee if we
8 have a procedural problem, because I'm just not seeing what
9 the problem is. Maybe someone else on the Committee does
10 and I will recognize Dr. Williams. Am I out of order, John?

11 MEMBER HISSERICH: Well, I wasn't going to comment on that, but
12 I do have questions, so if you want to finish this colloquy
13 first.

14 CHAIR LAMARE: Okay, well let's - does anyone want to comment on
15 what we were just talking about in terms of draft letters
16 and Committee review and the Executive Director? Okay. So
17 I think Dr. Hisserich was next, then Jeffrey.

18 MEMBER HISSERICH: All right. On the beating to death of the
19 question of what the advisory role is, when I go to the
20 mission statement, it says that it's to review - "it is an
21 advisory body established to review and evaluate vehicle
22 inspection and maintenance program and to recommend program
23 improvements to the administration and the legislature in a
24 timely manner." Now, if the legislature has put forward a
25 bill that does something to affect the Smog Check Program

1 and we have a role to recommend program improvements and we
2 look at that bill and say in our collective wisdom, we
3 recommend that that does or does not, whatever our view,
4 improve the program, it would seem to me to be a fair role
5 for us to then take a position on our recommendation
6 regarding that bill in a quote, timely manner. Otherwise,
7 we're just sort of doing things in an amorphous way. For
8 example, looking ahead, there's about five bills that we've
9 got here, but four of them specifically say 'Smog Check' in
10 the title. So again, in a timely manner, we could say,
11 well, if you ask our advice, which we are statutorily set up
12 to do, what's your recommendation? We recommend that you do
13 or don't do whatever that bill does. Or we recommend that,
14 yes, if you changed it this way.

15 MR. CHANG: And I think you can do that. I think you can make
16 the recommendation, but just don't go up there and take a
17 formal position. Just say, here's our concerns, this is
18 what we do, and we would recommend you do this. Stop short,
19 just stop short of taking that one position.

20 MEMBER HISSERICH: You could recommend that you do or don't
21 carry it forward?

22 MR. CHANG: No, you could recommend these particular changes or
23 these particular proposals or we think this would be
24 consistent, but don't cross - I think when you take the
25 position of we oppose, we support, at that point the

1 question is, okay, are you really - are you doing more than
2 advising or are you doing more than recommendation? I think
3 you get the same effect -

4 MEMBER HISSERICH: So we recommend that you take this course of
5 action.

6 MR. CHANG: You get the same effect of basically articulating
7 what this Committee's position is without actually taking
8 the support or oppose position. And again, I'm trying to
9 guide you so that you can do what you - I'm trying to give
10 you a way to accomplish what you want with being consistent
11 with the law so you can't be criticized for exceeding your
12 scope.

13 CHAIR LAMARE: Mr. Williams, then Mr. Heaston, then
14 Mr. Hotchkiss, then Mr. Kracov.

15 MEMBER WILLIAMS: I'm still confused on this point and I'll just
16 make a hypothetical that's not so hypothetical. Let's say
17 our report proposed - said we agree with the suggestion made
18 by BAR and ARB that there should be annual testing of older
19 vehicles. We recommend that. Now there's a bill that's put
20 that says, yes, that should happen, but those tests have to
21 be done at Gold Shield stations. I'm making up something
22 that isn't actually happening. Don't we then have the
23 obligation to advise that last restriction perhaps was not
24 wise?

25 MR. CHANG: Certainly you have.

1 MEMBER WILLIAMS: Because we haven't even expressed an opinion
2 about that before, and if I understand you, what you're
3 saying is we shouldn't say this is a good or bad bill and we
4 support it, just as have you thought through that - our
5 recommendation is that the last part not be added or
6 something. I'm just -

7 MR. CHANG: Right, and because - you explain your rationale for
8 that. I think you're allowed to do that because, again,
9 you're making a recommendation, you haven't taken a
10 position. You're just as effective, in fact, you're
11 probably more effective.

12 CHAIR LAMARE: Mr. Heaston?

13 MEMBER HEASTON: Yes, I think I just wanted to follow-up on the
14 idea with some of the bills if they are only - say it's from
15 another air district and they're seeking support from us,
16 then our position would be that we not get involved with
17 non-issues that related to our report? In other words, I
18 think there's been an issue to time when Rocky was called to
19 testify at a local district for support of some program that
20 the local district was doing that might complement our
21 program, so are you saying that we should avoid those?

22 MR. CHANG: I think you should avoid - yes, sending Rocky to
23 testify in support of particular local proposals. To the
24 extent that it may be consistent, Rocky can go ahead and say
25 that this is what we do, this program appears to be

1 complementary, but again, it's the position of the IMRC that
2 we do not take positions - formal positions on bills. But
3 we can certainly indicate rationales and whether or not
4 bills are consistent with our rationales.

5 MEMBER HEASTON: Okay, good. One other thing. No, I think that
6 answers my questions.

7 CHAIR LAMARE: So, we need to take more care in how we do our
8 business and how we state our business. Mr. Hotchkiss?

9 MEMBER HOTCHKISS: It almost sounds like this is a semantics
10 issue.

11 CHAIR LAMARE: Yes.

12 MEMBER HOTCHKISS: In the back of our package, we have two
13 letters that were sent out and they say that they're to
14 express support for specific bills. Now if we change those
15 letters to say - and they go out under the Chair - so if it
16 was to say that we are advising you that these are
17 consistent with - in one case, we have one that is
18 consistent with a recommendation we made in our last report.
19 That is not saying we support the bill, that's simply
20 pointing out that it - we're advising them that it's
21 consistent with something we've already discussed.

22 MR. CHANG: Yes, you are and you are doing it. I don't think
23 you've crossed over that line.

24 CHAIR LAMARE: You like the way our letters are stated?

25 MR. CHANG: I didn't have a copy of the letters.

1 CHAIR LAMARE: Okay. So let's run by Mr. Chang the letters that
2 we've already sent to see if they fit his model and get
3 feedback on that. Not necessarily today, but -

4 MR. CHANG: Okay, I'll work with Rocky on those.

5 CHAIR LAMARE: - work with Rocky on the wording, the semantics.
6 Mr. Kracov?

7 MEMBER KRACOV: What Mr. Hotchkiss really just cleared up with
8 his question really cleared up my point, so in these kinds
9 of letters, we really should - instead of saying we support
10 Assembly Bill 1, we recommend the approach taken in Assembly
11 Bill 1 based on the analysis and review that we've
12 performed.

13 MR. CHANG: (inaudible - mic not on.)

14 MEMBER KRACOV: I feel comfortable with that and I think that
15 looking at these letters we can craft a sensible and
16 efficient way that's consistent with our purpose and makes
17 the time that we spend up here and that everyone spends
18 meaningful. Thank you.

19 CHAIR LAMARE: Thank you. Rocky?

20 MR. CARLISLE: Just to clarify, all three of these letters under
21 Section 5 have gone in the mail -

22 CHAIR LAMARE: Yes.

23 MR. CARLISLE: - and have been received by the legislature.

24 CHAIR LAMARE: Understood. Mr. DeCota?

25 MEMBER DECOTA: Mr. Chang, as the Executive Director that

1 requested the language for this bill by Senator Newt
2 Russell, I don't know if you've checked the legislative
3 history of what created this Committee, but it was to give
4 the legislature and the governor an opinion on legislation.
5 I know because I was part of it at that time. And you
6 really need to look at the legislative history of this. It
7 was a board made up of air districts before, okay? It
8 became more of a universal-type board and this is not a
9 legislative bill that created this, it's another act within
10 the legislature, and I forget the acronym for it at the
11 moment, but that created this panel and I know exactly what
12 the intent was for, so I don't know how you've deciphered it
13 since then or if you've read it, but I disagree with you.

14 MR. CHANG: (inaudible - mic not on.)

15 CHAIR LAMARE: We have a small problem in that people are not
16 hearing you, Mr. Chang. Let's check on this and let's ask
17 you to just kind of restate what your advice on this is,
18 your legal advice.

19 MR. CHANG: Okay. (inaudible - mic not on.)

20 CHAIR LAMARE: No, it's not working. What did you do, Rocky?

21 It looked like you kicked it. Thank you.

22 MR. CHANG: Again, in looking at determining the legislative
23 intent, the rules of statutory construction does make it
24 very clear. The first way to determine legislative intent
25 is you look at the language of the statute. If it's clear

1 and unambiguous, you rely upon that. Mr. DeCota indicates
2 that he basically was present when the legislation was
3 drafted and that was the intent. I'm looking at the
4 language itself which says that the Board's purpose is
5 advisory and its purpose is to gather, analyze, and make
6 recommendations.

7 CHAIR LAMARE: All right, were there more questions on your
8 list?

9 MR. CHANG: I believe that was it.

10 CHAIR LAMARE: Any other questions of Mr. Chang from the
11 Committee Members? Then let's call for public comment on
12 this agenda item. Seeing no public comment - no, Mr.
13 Peters?

14 MR. PETERS: Yes, Madam Chairwoman and Committee, my name is
15 Charlie Peters, Clean Air Performance Professionals,
16 representing a coalition of motorists. Madam Chair, I was
17 late in getting here, so I may be asking questions that have
18 already been answered. I just - in discussing the meeting
19 at South Coast with a significant number of the I/M Review
20 Committee Members there and participating in the process,
21 some people that I talked to had some questions as to
22 whether or not there was appropriate jurisdiction to
23 participate in another body representing the Committee and I
24 just wondered if there was any response to that that I had
25 missed.

1 CHAIR LAMARE: Good question. Let's ask legal counsel about the
2 participation of several IMRC Members in a forum called by
3 the South Coast Air Quality Management District last week
4 which we did notice as our meeting and - how many Members of
5 the IMRC were at that meeting? Six Members of IMRC were
6 present for at least part of the forum, so could you give us
7 a reading on that circumstance?

8 MR. CHANG: Yes, it is my understanding that you were not
9 talking specifically about IMRC matters, but more topics of
10 general discussion, which relate to air quality. And there
11 is an exception for that type of situation outside of the
12 Open Meetings Act and that's Government Code Section
13 11122.5, which basically excepts from the typical definition
14 of a meeting the attendance of the majority of the members
15 of a State body at a conference or similar gathering, open
16 to the public that involves discussions of issues of general
17 interest to the public or public agencies provided that the
18 majority do not discuss among themselves matters which are
19 subject to your own jurisdiction. So this was a matter
20 which I discussed with Rocky before the Members attended and
21 we concluded that this type of attendance would not be
22 subject to the Open Meetings Act.

23 CHAIR LAMARE: Right, so I think that's one of the points that
24 we want to clarify for anyone who may have had concerns
25 about the IMRC Members participating in that forum is that

1 Rocky did consult with legal counsel and go through the
2 details involved there and we had feedback that the legal
3 counsel did not consider that a problem under the Bagley-
4 Keene Act. Any other public comment? Mr. Rice?

5 MR. RICE: Good morning, Bud Rice, Quality Tune-Up Shops. I'd
6 like to just take a quick moment and commend the Committee
7 for going through this exercise. I know it's frustrating, a
8 little bit painful, that kind of thing, but I'd like to just
9 take a second and just pat you on the back and say I think
10 it's time well-spent. Thank you.

11 CHAIR LAMARE: Thank you, Mr. Rice. I agree and I thank you for
12 your comments the last meeting admonishing us to pay more
13 attention to our procedures. I think this has really been
14 helpful to all of us and it's about time we did this again.
15 So thank you for being here, Mr. Chang.

16 MR. CHANG: Sure, thank you.

17 CHAIR LAMARE: Rocky, did you want to say something?

18 MR. CARLISLE: No.

19 CHAIR LAMARE: So thank you to Rocky and to you for setting this
20 agenda item up. We have completed public testimony. And
21 maybe Rocky will help me with making sure that we comply
22 with the Act as described by our legal counsel.

23 --oOo--

24 CHAIR LAMARE: Moving on then, we have scheduled a discussion
25 today of the South Coast Air Quality Management District's

1 Smog Check Technology Forum that was held last week and I
2 did, for the benefit of those who were not there - folks who
3 were not able to participate in the webcast, I want to just
4 review quickly what it was that the technology forum did,
5 specifically that South Coast is looking for new emission
6 reductions from in-use light-duty vehicles on the road,
7 emission reductions, and held a forum to look at current
8 research that might provide insight on what emission
9 reductions could be had. The South Coast has 16 million
10 residents that are effected by the worse air quality in the
11 national and 11 million light- and medium-duty vehicles, so
12 they are a very motivated organization. They consider Smog
13 Check as their single largest SIP measure and are looking to
14 augment it because they do not have enough emission
15 reductions to meet their targets. The South Coast Air
16 District has proposed that the new SIP include both light-
17 duty and medium-duty remote sensing of gross emitting or
18 high emitting vehicles on-road and also has recommended
19 voluntary implementation of remote onboard diagnostic
20 compliance monitoring, so those are three measures that are
21 not in the current CARB proposal for the SIP. A
22 presentation was made by James Goldstene from the California
23 Air Resources Board reviewing the items that the California
24 Air Resources Board is recommending for the new SIP. Some
25 of those items have been or are being implemented or in the

1 process of being implemented. Some are new. We've reviewed
2 them here in this Committee, but I would also point out to
3 everyone here that these presentations are available on the
4 South Coast website. Rocky, are you posting those
5 presentations on our website?

6 MR. CARLISLE: I haven't yet. I've got to talk to Dean Saito
7 about that, but I do have two of the presentations included
8 under Tab 3 of your book, plus we also have the agenda for
9 that meeting and those same presentations on the back table
10 if people want to take them.

11 CHAIR LAMARE: People may want to look at that. What the ARB is
12 expecting from the SIP is 14 tons of ROG and 14 tons of NOx
13 by 2014 from a combination of measure that they've discussed
14 with us. Also present at this workshop was Chief Mehl who
15 talked about the process and the difficulties of
16 implementing new Smog Check measures, so a dose of reality
17 for the visionaries. And she stressed the importance of
18 partnerships and vehicle owner education as key components
19 of what the Bureau is looking for and implementing new
20 emission reductions from Smog Check. I know that those
21 present will be interested in Mark Carlock's presentation,
22 which was on EMFAC, the emissions - California emissions
23 yada, yada, yada - factor model. We often have comments and
24 questions here in our meetings about how does EMFAC account
25 for Smog Check and what are the assumptions in the modeling

1 process about the Smog Check Program and what it's doing, so
2 Mark Carlock's presentation is helpful. Is that one of the
3 ones that's in our packet today?

4 MR. CARLISLE: Yes, it is.

5 CHAIR LAMARE: Okay, so you may want to look at that. He
6 described the work of the ARB surveillance program and the
7 BAR's random roadside inspection and how the ARB's
8 surveillance program feeds information into the modeling and
9 he also pointed that the - something that we reviewed in
10 2004 report that the estimates for on-road emissions made
11 from the model and estimates of on-road emissions that come
12 from the BAR's random roadside inspection do line up rather
13 well; however, the size and the sampling on the ARB
14 surveillance program is not robust and I think that was one
15 of the main points that Mark made about the whole process of
16 modeling the emissions reductions in Smog Check. There was
17 also a presentation from Peter McClintock of Applied
18 Analysis who look at the feasibility and the benefits of on-
19 road identification of high emitters and this will be
20 helpful to the Committee to review this presentation in the
21 context of the upcoming report by ARB and the Bureau on
22 their on-road random RS sensing - remote sensing device
23 study, RSD study, that we're looking forward to reviewing.
24 But McClintock's point was that you could identify the
25 highest emitting three percent of the vehicles on the road

1 and that that would have benefits including measured and
2 unmeasured benefits for the air districts. And Dean Saito's
3 already noted that air districts now do have the authority
4 and the funding to do scrappage programs on their own and so
5 that would operate independently of the BAR's program.
6 There was also some interesting discussion in McClintock's
7 presentation about the limits of ASM testing and the
8 Committee may want to look more - become more knowledgeable
9 about ASM testing and what it reflects well and what it does
10 not reflect well. A fascinating discussion by Michael
11 McCarthy of the Air Resources Board and this Committee has
12 heard from Mr. McCarthy in the past, but his presentation on
13 OBD systems, what to look for, how they're evolving, where
14 other states are in implementing remote monitoring of OBD
15 systems was quite interesting. Is that one of the
16 presentations that we have in our packet?

17 MR. CARLISLE: Yes, it is.

18 CHAIR LAMARE: All right. And the final presentation was by Dr.
19 John Collins of the UC Riverside's CE-CERT, presented
20 results from recent research on the measurement of
21 particulate mass from light-duty vehicles and the vehicles
22 that were selected for testing were primarily smoking
23 vehicles. That's an issue that's been of interest to this
24 Committee in the past and so we may want to review that as
25 well. So after the presentations, there was a couple-hour

1 discussion on a variety of issues and I did ask the Members
2 of IMRC who were there to come prepared to talk about what
3 for them were the highlights of this forum, what questions
4 it raised for them or follow-through it raised for them. So
5 I'd like to call on Members of the IMRC who are prepared to
6 comment on the forum. Dr. Williams?

7 MEMBER WILLIAMS: On more reflection, I thought one of the more
8 interesting things was the research presented by John
9 Collins about the smoking vehicles. With the base - there
10 was a small sample of eight vehicles really, but they'd been
11 picked for different smoke colors and different ages to see
12 if they could actually measure the amount of particulate
13 matter and the answer to that was yes, but there was other
14 evidence that was perhaps more important for our
15 perspective, which was that most of these vehicles, if not
16 all the ones that were smoking vehicles would have failed
17 Smog Check anyway, so the smoke was in a way a redundant
18 measure that there was a problem with this vehicle. But
19 that led to the next issue which was actually to fix those
20 smoking vehicles was very expensive. They should be
21 scrapped because most of them had a value less than the cost
22 of the repairs. So I, reflecting on that message, say that
23 the main issue about the smoking vehicles and the new law
24 about that is really about the cost of repairs and whether
25 people will retire a car, where before it might have been

1 expedient to just buy a new catalyst and pass the Smog Check
2 quickly and not bother to fix the engine or scrap the
3 vehicle. Now it's going to be a different circumstance
4 because, as I understand it, there isn't the limit on the
5 value of the repair that's required to fix a smoking
6 vehicle. So we may actually find that vehicles get retired,
7 but because of the smoke check, but it's not really we're
8 finding different vehicles.

9 CHAIR LAMARE: Interesting. We'll come back if you have more
10 comments. Mr. Nickey?

11 MEMBER NICKEY: I just had a couple. There was quite a
12 discussion about the HEP, high-emitter profile, and at least
13 from my standpoint, the discussion about the high-emitter
14 profile looks like we keep trying to be able to point at a
15 particular vehicle and say that one's going to fail and
16 eliminate all the ones that are not going to fail so they
17 don't have to be inconvenienced by Smog Check and I pointed
18 out that it's very much like the insurance companies would
19 very much like to find out where the losses are going to be
20 and would love to have information to point that out, but
21 it's with statistical information and forecasting, I just
22 don't see how you can do that and they don't either because
23 they've never figured it out, so you end up insuring
24 everybody and the losses take care of themselves. At least
25 their identified as part of the whole. It would be nice to

1 be able to pick them out, one, two, three, but I just don't
2 think that's going to be possible. I don't think you can
3 refine the HEP that far. The other one that keeps coming up
4 is this four-wheel dynamometer testing and I have some
5 interesting information I just received yesterday. I've
6 been pretty much opposed to this, basically because of the
7 cost. I had been told in the past that probably it will
8 cost \$100,000 per to put a four-wheel dynamometer in for
9 testing all these vehicles that are exempt from ASM testing
10 because they're either non-disengagable traction control,
11 all-wheel drive or whatever. I pointed out the example that
12 if you just take one group of cars which are Mercedes, 93
13 on, are all non-ASM testable. And the comment was made,
14 well, we'll just send these guys to the referee. Well,
15 there are probably about 30 referee stations in the state.
16 If each one of those had a four-wheel dynamometer and you
17 sent all of these cars, you're going to overwhelm the whole
18 system. There's just not enough out there. To mandate
19 everybody to spend \$100,000 for a four-wheel dynamometer I
20 think is just beyond it. But I did get a phone call from
21 Mustang Dynamometer yesterday and they said they've been
22 asked this question quite often and nobody wants to take any
23 action on it, but they said for between \$25,000 to \$30,000,
24 they can equip stations with a four-wheel dynamometer that
25 can do ASM testing, so at least that brings it into the

1 realm of possibility to think about it anyway. It's still a
2 sizable investment, but not near as big as we once thought.
3 And the interesting thing was is that actually people had
4 already have, like myself, that have two-wheel dynamometers,
5 they can be adapted to four-wheel. You don't have to buy a
6 whole new piece of equipment. They actually can add the
7 second piece. They're not mechanically connected. They
8 synchronize electronically, so it could be done if we
9 thought there was enough benefit to justify the cost.

10 CHAIR LAMARE: Thank you. Other comments? Gideon?

11 MEMBER KRACOV: I got there a little bit late and missed the ARB
12 presentation and I went on the website to see if I could get
13 a copy of the written materials. I couldn't find it and I
14 know it's not in our packet here, but I would like to see a
15 copy of the ARB materials, if you have those, Rocky, or
16 maybe direct that to the ARB.

17 MR. CARLISLE: Yes, they're up on the website now. I just
18 located the site, so I can give that to you.

19 CHAIR LAMARE: Other questions or comments or clarifications
20 about the forum? Dennis DeCota?

21 MEMBER DECOTA: The forum I think helps us focus on the issues,
22 the problems and the future. I thought that it was very
23 well done and very informative. It brings us up to date. I
24 was a little surprised that there were different
25 recommendations for the SIP upcoming, but there was very

1 little with regards to putting some teeth into the law and
2 making folks repair the vehicle. And I think that has a
3 tendency to downplay the good work that they're trying to
4 accomplish. We've got to find a way to fix these vehicles
5 and mandate that they come into compliance and I think the
6 first step is changes in the laws that force people to do
7 so. But I found it very well done.

8 CHAIR LAMARE: Dr. Hisserich?

9 MEMBER HISSEIRICH: Well, one thing I found interesting had to do
10 with the ports and I recognize that's only tangential to
11 what we do here, but the whole issue of the ports in
12 Southern California and their impact on the smog production
13 is pretty considerable and how to correct that. Some
14 discussion about the remote sensing and how you might
15 control access to the ports and the vehicles going in and
16 out of there, but the problem arises is that many of the
17 vehicles, many of which are older trucks, are owned by
18 people who are unable to repair them. I understand that at
19 least the cost of repairing them is pretty high. There's a
20 sizable amount of money available, I guess, to replace those
21 vehicles, but it's going to be interesting to see how that's
22 implemented over the future. As I say, it's slightly
23 tangential to what we do, but points out how remote sensing
24 in that particular controlled circumstance might be of value
25 in cleaning up that particular problem, which according to I

1 think Mr. Saito's presentation, if I'm not mistaken, said
2 contributed a substantial amount to the South Coast air
3 basis was I think 40 percent or something like that, Dean, I
4 think you said. Well, you can address it later, but it was
5 a substantial amount that it contributed to the South Coast
6 area I think from mobile sources at the port area.

7 CHAIR LAMARE: Mr. Saito, maybe we can get a clarification and
8 if you have other comments, feel free to make them at this
9 point.

10 MR. SAITO: On behalf of the South Coast, we'd really like to
11 thank the IMRC Members who did participate. We got a lot of
12 compliments on the forum. There was a request to
13 continually have these types of forums and the people on the
14 webcast, there were a lot of viewers on the webcast that
15 paid us a lot of compliments, so thank you to the Members
16 who participated. My personal take-away from the forum I
17 think was that there is quite a bit of untapped data
18 available out there that has yet to be looked at and I think
19 as we evolve in the next couple years, I think you heard
20 from the Air Resources Board and from BAR that there's going
21 to be significant changes to the program. I think the
22 untapped data is something that really needs to be looked at
23 as we update the mobile source models from ARB. I think you
24 also heard from Mr. Carlock that the model has not been
25 updated in quite a long time and I think there really needs

1 to be a refocus exam of the EMFAC model as it relates to the
2 Smog Check Program. And I think that really needs to be a
3 collaborative process. As we acquire more data, whether it
4 be through remote sensing or whether it be through onboard
5 diagnostic, I think it's going to tell us a lot about the
6 effectiveness of the Smog Check Program and what kind of
7 quantified benefits should the model reflect and I think
8 that's something that needs to be focused upon in the next
9 couple of years. With regards to the port activities,
10 clearly our SIP plan has a focus on heavy-duty diesel
11 trucks. Currently, there's no in-use program - in-use
12 testing program for heavy-duty diesel trucks. And
13 forecasted in the year 2020, those are going to be our
14 largest source of emissions from these heavy-duty diesel
15 trucks and we're calling for - of course with the bond
16 initiative passing, \$1 billion going to our air pollution
17 measures, we're calling on a lot of those funds being used
18 to modernize the fleet, especially for port operations.
19 Forty percent of all goods that come into the U.S. come
20 through the ports of Long Beach and Los Angeles. The growth
21 of goods movement is planned to grow significantly; however,
22 without controlling the emissions from those goods-movement
23 vehicles, there's no way the South Coast is going to be able
24 to show attainment for either PM 2.5 or the eight-hour ozone
25 standards.

1 MEMBER HISSERICH: And through the Chair, may I just clarify one
2 thing? I misspoke when I said - what was the percentage of
3 contribution by the port, do you think, to the air basins?

4 MR. SAITO: Well, when you look at the forecast years, the
5 single largest source of the NOx inventory is going to be
6 from the heavy-duty trucks. And a lot of that is because
7 unlike light-duty and medium-duty vehicles, there is no Smog
8 Check Program. And so there has to be a renewed focus on
9 developing something like an I/M Program for heavy-duty
10 trucks. And one of the ways that we've contemplated on
11 implementing an I/M Program, at least in our SIP, is through
12 remote sensing and measuring the end-use emissions from
13 those heavy-duty trucks in order to prioritize what trucks
14 needs to be replaced or modernized in order to reduce their
15 impact in air pollution. So that's why our SIP plan does
16 call for remote-sensing, not only light-duty, but also
17 heavy-duty, as well as OBD III.

18 CHAIR LAMARE: Okay. I have a comment from Dr. Williams.

19 MEMBER WILLIAMS: I wanted to add one other lesson I took away
20 from that meeting, which was it was a very good thing to
21 have a meeting in Los Angeles for a change and especially in
22 the context of public comments. We got a lot of very
23 sensible ones, not that people here don't make sensible
24 comments, it's just that the greater breadth of people who
25 could attend there, we should occasionally have meetings

1 there.

2 CHAIR LAMARE: Good. Did you have another comment, Gideon?

3 Anyone else? I'd just like to mention a few things that I
4 think may come up for us as we move ahead. One would be
5 there was a suggestion of implementing a voluntary remote
6 OBD compliance monitoring with licensed providers, like we
7 do licensed Smog Check stations, something that I hadn't
8 heard before here as a way to proceed with OBD compliance
9 monitoring. I also heard a suggestion that there could be a
10 tightening in inspection criteria for passing the OBD test
11 and that's something I think we definitely should look at.
12 That had to do with the readiness of the OBD monitors for
13 retest. We also heard about implementation of OBD-only
14 testing for some parts of the fleet. We haven't talk about
15 that much here, but I know that our group working on the
16 future of Smog Check in our report will be looking at that.
17 Again, how to test NOx in all-wheel drive, four-wheel drive
18 vehicles that don't have OBD systems, we really don't know
19 what the emissions penalty is for those vehicles. At least
20 I don't. I'd like to hear more from ARB on that.

21 Identification of high-mileage vehicles in the first six
22 model years I think is a major problem for implementing a
23 recommendation we've already made that high-mileage vehicles
24 be subject to Smog Check prior to the - be subject to annual
25 Smog Check and how do you identify those if, in the first

1 six years, they're not subject to Smog Check at all. There
2 was some discussion at this forum about the potential for
3 remote OBD to identify high-mileage vehicles. However, at
4 present, California's vehicles are not required to have
5 their VIN numbers readable by OBD systems. So while VIN and
6 odometer monitoring is feasible, how do we get from here to
7 there. Rocky, would you like to correct that?

8 MR. CARLISLE: Yes, just 2005 and newer they will have VIN
9 encoded into the computer.

10 CHAIR LAMARE: Thank you. So from 2005 and newer. Mr. Nickey?

11 MEMBER NICKEY: What about mileage information? Didn't they say
12 that somewhere they were going to start putting mileage
13 information on OBD? In other words, it could be read off
14 the OBD?

15 MR. CARLISLE: They talked about 2010 for that.

16 CHAIR LAMARE: So I know that members of the public are
17 concerned about being able to identify annual high-mileage
18 vehicles also from the point of view of reducing greenhouse
19 gas emissions, or at least accounting for them, that there
20 are multiple reasons for tracking mileage, wanting the State
21 to be able to track mileage, so that opens up maybe some
22 controversial discussion for the future. So do the
23 Committee Members want to say more before we ask for public
24 comment?

25 MEMBER DECOTA: Just one thing.

1 CHAIR LAMARE: Dennis DeCota?

2 MEMBER DECOTA: Madam Chair, I was thinking, we've had a lot of
3 information on RSD. Have we ever correlated that back to
4 the odometer of the vehicle to see if there's a correlation
5 between the high mileage and the emissions?

6 CHAIR LAMARE: Question to put on our list for the agencies.

7 Okay. Public comment. Mr. Peters, then Mr. Ward.

8 MR. PETERS: Yes, Madam Chair, Committee, my name is Charlie
9 Peters, Clean Air Performance Professionals, a coalition of
10 motorists. Some very interesting things have been mentioned
11 and discussed here in the last few minutes and it brings
12 back an experience in 1991 where I went to a joint
13 legislative hearing put on by the good Senator Pressley,
14 commonly known to some as the father of Smog Check, and
15 South Coast Air Quality Management District was there and as
16 I recall they were very strongly reprimanded for trying to
17 control the issue of mobile source and informed that their
18 job was stationary source and I wonder if that's still not
19 appropriate today. Another thing that seems to have been
20 discussed here today at considerable length, and was
21 discussed at the technology forum at South Coast, was lots
22 and lots of technology solutions and lots of data. A
23 gentleman on the panel was significant supporter of or
24 employee of the remote sensing process. Nobody mentions
25 that we had a demonstration here - excuse me - yes, here,

1 and the system didn't work at all, wouldn't even function at
2 all. The studies just done in the Central Valley report
3 indicated that you had to go to five percent CO, 1,000 ppm
4 of hydrocarbon, 1,000 ppm of NOx, and still didn't get
5 readings off half the cars the ran through in a controlled
6 situation in the parking lot. The thing that's not being
7 mentioned here is there are thousands of licensed smog
8 mechanics in the state of California whose behavior in my
9 opinion, there are opportunities for very significant
10 improvements. California has the best performing program in
11 the world without reservation in my mind based upon the data
12 and information I've looked at, and that could be very
13 significantly improved with improved oversight. When Sierra
14 Research - the talk here has been that there's been
15 significant amount of failures shortly after certifications
16 and so if in fact what is actually broken gets repaired and
17 reveal Mr. Carlock's testimony to this Committee would
18 indicate that he agreed that if what was actually broken got
19 fixed, the car would pass every time. So there's been no
20 discussion about improving the oversight. The Bureau of
21 Automotive Repair is the best in the world, they can be
22 improved at giving sufficient support from the Committee
23 rather than direction that is different. Thank you.

24 CHAIR LAMARE: Thank you, Mr. Peters. Mr. Ward?

25 MR. WARD: Madam Chair, Committee Members, Randall Ward,

1 California Emissions Testing Industries Association. A
2 couple of thoughts. I wish that I had the opportunity to
3 attend the meeting that you all did in the South Coast. It
4 sounds like it was particularly interesting and informative.
5 The one thing I didn't hear were comments about how to make
6 this program work better and I know that - I'm not trying to
7 speak for Dennis or myself or Bud or Roger, people that are
8 involved with the incremental components of the Smog Check
9 Program have brought up the issue of the lack of consistency
10 in preconditioning and the potential for significant
11 emissions benefits if there was a consistent approach to
12 preconditioning. And I know that you've left that charge
13 squarely in the arms of the Bureau, but clearly it is a big
14 issue and we all know that preconditioning is the cause of
15 significant emission problems. And I'm not asking for
16 comment, I'm just making the statement. Secondly, with
17 regard to the port, I don't know - I was only made aware
18 recently, the ARB has mobile emission testing of vehicles at
19 the Port of Los Angeles and Long Beach and I, for one, would
20 be interested in seeing the methodology and the statistics
21 that they're gleaning from gathering the data from those
22 vehicles. I think the port issue that you raised the
23 question about and Mr. Saito spoke about is certainly -
24 we're just seeing the tip of the iceberg. The expansion of
25 the ports, the impact to not only the State's economy, but

1 he nation's economy is absolutely significant and, clearly,
2 if there is going to be the kind of expansion and
3 development that's envisioned, the air quality issues are
4 going to have to dealt with in a major way. Thank you.

5 CHAIR LAMARE: Thank you. Since we have the luxury of legal
6 counsel at our meeting, may we ask about the jurisdiction of
7 this Committee to bring forward issues or reports or
8 research regarding inspection and maintenance or remote
9 testing of heavy-duty vehicles on-road?

10 MR. CHANG: You know, I'd have to look more closely at your
11 statute before I give you that opinion. I don't feel
12 comfortable giving you one at this point.

13 CHAIR LAMARE: But could you think about that a little bit?

14 MR. CHANG: Sure.

15 CHAIR LAMARE: Because I sense that there is a lot of interest
16 in that topic area and I, to date, have not brought forward
17 any requests in that arena because I felt that we were
18 limited to light-duty vehicles at this point.

19 MR. CHANG: Let me take a look at that and get back to you.

20 CHAIR LAMARE: Is there more public testimony? There was a
21 question I'm hoping air districts might address. I know
22 that Mr. Saito and Mr. Sherwood are here. The question
23 about the ability of districts to operate on mobile source
24 emissions, the role of districts versus the ARB. Maybe we
25 should take some comment on that.

1 MR. SAITO: Yes, with respect to the South Coast Air Quality
2 Management District, for the last couple of years, because
3 of the inventory, if you look at our current inventory and
4 our forecast inventory, so much of the inventory is
5 dominated by mobile source. I think in our latest
6 projection in the year 2020, only 20 percent of the overall
7 inventory is reflected by stationary and area sources, so 80
8 percent is dominated by mobile sources. Our chairman this
9 year, as part of his initiative for the upcoming year, was
10 to seek authority, more authority, for the air district, the
11 South Coast in particular, to develop their own mobile
12 source strategy plan. And I'm sure this year you're going
13 to see an effort by the South Coast to seek that authority
14 both at the State level and at the federal level. But
15 clearly with the adoption of the district's fleet rules back
16 in 2000 and 2001 for specific-niche categories where the
17 governing board saw that alternative fuels were the best
18 available controlled technology for specific types of
19 fleets, school buses, refuse trucks, public entities, heavy-
20 duty fleets, the board adopted a series of fleet rules to
21 minimize the impact of heavy duty and light-duty vehicles
22 through a series of fleet rules, so I think you're going to
23 see, at least from our governing board standpoint, a real
24 effort to try to seek more authority in developing mobile
25 source measures in the South Coast air basin.

1 CHAIR LAMARE: Did you address AB923 in your comments? I wonder
2 if you could just mention that.

3 MR. SAITO: Last year, the Governor did sign AB923, which
4 afforded air districts the option of increasing the motor
5 vehicle registration fee by two dollars and allow the air
6 districts to use that income for purposes of additional
7 Moyer-type projects. There were new categories added under
8 AB923 which included light-duty and agriculture. So now, if
9 an air district opted into AB923 through its governing board
10 by adopting this increase in revenue, it can adopt light-
11 duty programs as long as it follows the ARB guidance under
12 those categories. And the Air Resources Board has
13 established guidance for light-duty under the AB923 program.

14 CHAIR LAMARE: Great. I just want to mention one fact that was
15 presented by you at the conference that really shocked me
16 and that is that 82 percent of the population exposure to
17 excess particulate matter in the state -

18 MR. SAITO: Two point five.

19 CHAIR LAMARE: - levels of 2.5 were greater or less is in the
20 South Coast. South Coast has 16 million people, 11 million
21 vehicles, and, therefore, it is arbitrary division between
22 the State responsibility and the local responsibility is
23 really put to the test, aside from the fact that you do have
24 statutory authority to move forward on mobile sources in
25 some specific areas. If the State does not provide you with

1 the mobile source control sufficient to meet your standards,
2 I don't know what else you could do but to take them on.

3 MR. SAITO: Right. And if the region does fail to reach
4 attainment of the PM 2.5 standards by the statutory deadline
5 in the Federal Clean Air Act, the penalties associated with
6 that fall on stationary sources in terms of increase to
7 offset threshold for NSR and transportation funding. So the
8 penalties really impact stationary sources if we're not able
9 to show attainment by the statutory deadline in the Federal
10 Clean Air Act. And for that reason, the South Coast is
11 really pushing for this upcoming SIP to include an
12 attainment demonstration for PM 2.5 by 2015. One thing
13 that's unusual about South Coast is its PM 2.5 problem is
14 not a primary PM problem. Half of the problem, 50 percent
15 of the problem, is a secondary aerosol problem caused by NOx
16 emissions, NOx emitting with ammonia to form ammonium
17 nitrate. So not only do we need NOx reductions for ozone,
18 but we clearly need additional NOx reductions to attain the
19 PM 2.5 standard in the region.

20 CHAIR LAMARE: Thank you for that clarification. Mr. Peters,
21 before I call on you again, I will call on others and
22 certainly Mr. Sherwood from the Sacramento Metropolitan Air
23 Quality Management District. Thank you for being here.

24 MR. SHERWOOD: Sure. Larry Sherwood, I'm the mobile source
25 division manager of the Sacramento Air District. And just

1 to add a couple of comments to what Dean said, because we're
2 following very closely what they're doing in terms of
3 getting more authority for watching mobile sources in their
4 district. We're really in a worse condition than they are
5 in some cases because we have less industry. And as a
6 result, mobile sources really contribute even more in terms
7 of ozone and that sort of thing. But even in the areas
8 where we have been given authority under AB923, if the Air
9 Resources Board and the BAR expand their scrappage program,
10 really the only surplus emissions may be the pre-76 cars
11 that are not part of Smog Check. The amount of those we
12 really wonder if there's going to be enough to have a
13 significant impact to run a light-duty program. So we're
14 looking at those kinds of things. With the new on- and off-
15 road rules that ARB is proposing to implement, we may be
16 limited even more on our voluntary programs under Carl
17 Moyer.

18 CHAIR LAMARE: You mentioned voluntary programs under Carl
19 Moyer. Could you briefly discuss what the district's been
20 doing in that arena?

21 MR. SHERWOOD: Yes, between the Carl Moyer and our Sacramento
22 Emergency Clean Air and Transportation Program, the SECAT
23 Program, we've spent so far about \$70 million in last five
24 or six years on cleaning up heavy-duty diesel trucks and
25 that's amounted to somewhere around seven tons per day of

1 NOx. I don't really remember exactly what the PM is, but
2 there's a significant chunk there, too.

3 CHAIR LAMARE: So that's a good example of a district mobile
4 source program that's been effective at reducing emissions.
5 Questions, Gideon, did you -

6 MEMBER KRACOV: I just didn't catch it - what is the reason why
7 you believe that the effectiveness of that measure is only
8 get you to the pre-76 vehicles?

9 MR. SHERWOOD: Oh, under AB923 you mean?

10 MEMBER KRACOV: Yes.

11 MR. SHERWOOD: Well, the light-duty program, if we're doing
12 scrappage, the Air Resources Board, at least in their
13 presentations on the SIP program, so far is talking about
14 expanding and taking on the cars that not only fail Smog
15 Check, but also the cars that are very close to failing. So
16 the remaining cars, of course, are good passes and they're
17 probably unlikely to provide a lot of emission benefits.
18 Does that make sense? When I first heard about that, that's
19 what we thought we would go after, the cars that were
20 marginal passes, but those probably won't be available.

21 MEMBER KRACOV: Because they'll be in their program.

22 MR. SHERWOOD: Right.

23 CHAIR LAMARE: And Mr. Williams?

24 MEMBER WILLIAMS: One thing we heard, it was from Mark Carlock,
25 that a large fraction of the pollution is coming from -

1 while not pre-1976 cars, but the 1980 cars where the
2 standard is so high that even if they're fixed, there's
3 still a lot of pollution relative to a new car. Now there
4 are more new cars than these older cars, but the percentage
5 of total pollution is substantial in those 1985 vehicle -

6 CHAIR LAMARE: The permitted emissions are so high.

7 MEMBER WILLIAMS: The permitted emission is still so high.

8 MR. SHERWOOD: Yes, we will look at that. That is part of an
9 analysis that we have going on right now with one of our
10 subcontractors. Still, under the Carl Moyer program where
11 AB923, kind of those funds fall, we still have to hit the
12 cost-effectiveness of 14,300 per tons, so that may be
13 difficult to do even though what you're saying is true.

14 CHAIR LAMARE: Thank you. Mr. Rice?

15 MR. RICE: Bud Rice, Quality Tune-Up Shops. Just a couple of
16 quick comments. The first one is, now we're back talking
17 about pre-76 cars. I recall when the recommendations were
18 to take those cars, we were screaming about, well, why would
19 you do that? That's where a bunch of the emissions are
20 going to be. Now they're out and now we don't get the
21 emission reductions. Now we're talking about putting them
22 back in. Sometimes it's a little confusing as to what it is
23 we're doing here when we're yanking cars in and out of the
24 program. The second quick comment is that I think in the
25 last legislative cycle, there was an effort afoot to move

1 the regulatory responsibility away from BAR over to ARB and
2 I think that the Committee here was kind - you were
3 recommending that maybe that happen. Then obviously that
4 did not occur. And sometimes I hear about what's happening
5 with the air boards and I'm wondering if really it isn't the
6 end run to not come around the backside and accomplish that
7 without going through the front door, you're coming through
8 the side door to do some of that, so I have some concerns
9 about that.

10 CHAIR LAMARE: Could you elaborate what you're talking about
11 there?

12 MR. RICE: Well, I guess what I'm saying is that there was
13 movement to try to move the regulatory responsibility from
14 BAR over to ARB. That didn't happen. Now we have the air
15 boards jumping up and down saying we want to manage our own
16 domains, and that in itself, as they try to regulate mobile
17 sources -

18 CHAIR LAMARE: You're talking about the air districts?

19 MR. RICE: Air districts themselves, yes.

20 CHAIR LAMARE: At the local level.

21 MR. RICE: To accomplish the same thing again with probably the
22 ARB coming around and saying, hey, why don't you come under
23 my umbrella over here and it's going to accomplish the same
24 thing, but to me, it's an end-run.

25 CHAIR LAMARE: Some inter-jurisdictional struggle over who's in

1 charge?

2 MR. RICE: That's correct. Thank you for your time.

3 CHAIR LAMARE: Okay. Just to elaborate, the Carl Moyer program
4 and Mr. Sherwood addressed and that Mr. Saito addressed is a
5 voluntary program with public funds to get additional
6 emission benefits over and above the Smog Check Program.
7 Other public comment? Mr. Peters, come back and talk some
8 more.

9 MR. PETERS: Yes, Madam Chairwoman and Committee, my name is
10 Charlie Peters, Clean Air Performance Professionals. I ran
11 across a little interesting information on Carl Moyer the
12 other day and it appears as though we created significant
13 Carl Moyer money by taking two years out of the Smog Check
14 Program, which is a prevention program that keeps cars from
15 becoming broken, in my opinion. But we took them out so now
16 they can become broken and nobody cares, gave that money to
17 the Department of Motor Vehicles collected in the DMV fees,
18 \$12.00 a year, and I think that money was supposed to go to
19 DCA BAR for their program, but somehow or another, those
20 funds end up apparently at ARB who gives them to the
21 counties and the air districts, and so they decided to help
22 this gambling casino in Nevada restore a 1966 70-foot party
23 boat where they do weddings and so on. And you can rent
24 this little outfit for \$1,000.00 an hour. And so we spend
25 the money apparently from motorist tax that's supposed to be

1 for taking care of - I don't know how you're going to affect
2 California air by working on something in Lake Tahoe - or in
3 Nevada. I think that all goes east, but what that costs I
4 imagine probably is pretty interesting, probably everybody
5 that touched the money got 10, 20 percent, and those should
6 have been a bunch of cars getting Smog Checks that probably
7 should have prevented a lot of pollution in the State of
8 California. But having said that, I have always been a
9 basic supporter of doing things locally. I think the
10 Sheriff would probably do about as good a job of managing
11 Smog Check as anybody, and probably care a lot more about
12 the results, but I have gone personally to South Coast and
13 made suggestions over improved management, even stopped the
14 FIP meeting, after it stopped, reconstituted the meeting,
15 and was able to make a presentation there supported by a
16 previous chair and so on, but they're not interested in
17 anything other than scrapping cars at 50,000 cars a year,
18 hiring huge lobbyists to lobby the California legislature
19 and the federal -

20 CHAIR LAMARE: Mr. Peters, is your comment directed to the
21 agenda item that we're talking about, which is the South
22 Coast Air Quality Management District's Smog Check
23 Technology Forum?

24 MR. PETERS: Absolutely.

25 CHAIR LAMARE: I'm not hearing that. I'm hearing -

1 MR. PETERS: That's the technology that's the most important one
2 here is the stuff between the ears of the people who do Smog
3 Checks in the state of California which is being completely
4 disregarded and I said to you that I support the local
5 district taking care of that, but they totally ignore
6 possibilities of what I believe would significantly improve
7 the performance of the program, which is improved oversight.

8 CHAIR LAMARE: Okay, thank you very much. Now is there anyone
9 here today who can address the issue of Moyer funds that are
10 drawn from motorist fees in lieu of Smog Check and where
11 they're directed and what the process is? Mr. Saito? Mr.
12 Kato, will you -

13 MR. SAITO: My recollection is I believe that was done through
14 SB1107. And under SB1107, the additional two years to six
15 years was - those funds went into the SB1107 pot of money
16 for Moyer and to allow for buying credits, voluntary
17 credits, through the Moyer program through SB1107.

18 CHAIR LAMARE: To reduce NOx, thank you. Rocky?

19 MR. CARLISLE: Yes, I should point out, too, some of that money
20 goes to the Gold Shield Program, the CAP Program at BAR, and
21 half of it goes to Carl Moyer. And the other two years that
22 they pulled out, the whole basis for that was because the
23 emissions reductions exceeded over \$100,000 a ton because
24 there were so few cars that failed in that parameter.

25 CHAIR LAMARE: Right, and of course the Moyer program has

1 emission reduction cost-effectiveness criteria in the
2 program so that emission reductions are tested and -
3 according to cost-effectiveness criteria.

4 MR. CARLISLE: And they were \$3,000 - I believe it was \$3,000 a
5 ton in the analysis they did.

6 CHAIR LAMARE: Okay, any other comments on that? John? No,
7 okay. ARB is fine with that explanation? I'm not aware of
8 all the projects that Moyer is spent on, but I am aware it
9 is a competitive process that there are projects that are
10 done for multidistrict impacts that are done by ARB, but all
11 of those projects have to meet various criteria in the law
12 and that information is available on ARB's website. Other
13 comments on this item? Okay. So we are scheduled for a
14 lunch break. Is there any objection to taking an early
15 lunch today and being back here at say 12:20, 12:30, 12:15?
16 Okay, 12:30. And what we'll do this afternoon is we'll just
17 work on our report planning, the Executive Director's
18 report, legislative update, public comment, future agenda
19 items, and we will complete by 2:30.

20 --oOo--

21 CHAIR LAMARE: I'm calling the afternoon session to order on
22 March 27th for the California Inspection and Maintenance
23 Review Committee. For our remaining couple of hours here
24 this afternoon, we're going to want to cover the report
25 planning, Executive Officer's Activity Report, legislative

1 update, and Committee discussion on bills, and final public
2 comments and any suggestions for future agenda items. And
3 so in terms of report planning, I did hear the suggestion
4 that we suspend a regular meeting and work on our Committee
5 Reports and then come back with our draft Committee reports,
6 so I am wondering what the Committee's response would be to
7 suspending the April meeting and maybe even the May meeting
8 to complete the Committee reports and so that by June we
9 have draft committee reports to start reviewing. What would
10 be your recommendations on that, Committee Members? Are you
11 ready to start getting these reports done? Jeffrey?

12 MEMBER WILLIAMS: I could see saying goodbye to the April
13 meeting, but I think the May one we might want to have. But
14 we don't have to make that decision until -

15 CHAIR LAMARE: But it would be good to have this discussion
16 about options. I hear a preference here to come back in May
17 and see where we are.

18 MEMBER HISSERICH: I'm going to be out of the country in May.

19 CHAIR LAMARE: And John's going to be gone in May so we may have
20 a problem with quorum. Other comments? Is anyone opposed
21 to suspending our next meeting in favor of committee
22 meetings with the admonition that you're all expected to
23 work on your committee reports and have something to report
24 back in April? I'm sorry, next I'll moving to morning-only
25 meetings. So that we come back in May with substantial

1 feedback for the Committee to respond to. Rocky, could you
2 report on any committee meetings that you've had over the
3 last month?

4 MR. CARLISLE: This last month, to be honest, we haven't had
5 any. I've been working on other issues relative to those
6 because - for example, the Smog Check station performance
7 we're waiting for Sierra Research.

8 CHAIR LAMARE: What do we know about when that's going to pop
9 out?

10 MR. CARLISLE: I've tried to get a hold of James Goldstene.
11 He's out of town, so I probably won't find out for another
12 day or two. We're waiting for RSD on future directions of
13 Smog Check. I just got yesterday the data from DMV on
14 program avoidance that we are going to follow-up with the
15 International Registration Plan. This is the data that we
16 requested in October of last year. They said get it from
17 ARB, ARB agreed. Then in December, ARB thought we should
18 get it from DMV, so I started the process all over again.
19 So to make a long story short, we finally got it yesterday.
20 As far as particulate matter testing, you and I talked about
21 that earlier this morning.

22 CHAIR LAMARE: We'll go through each of these.

23 MR. CARLISLE: So that's where it stands right now. We haven't
24 had any subcommittee meetings this month on these issues.

25 CHAIR LAMARE: The other thing that happens with our report is

1 that we end up suspending meetings while the Executive
2 Director writes the report, and I would like to see a
3 schedule for getting this report ready for public review by
4 our September meeting where we - let's accelerate things a
5 little bit so we don't end up in that position of not having
6 a draft ready. So I would like to see that our Committee
7 reports - where the Committee Members actually have prepared
8 the report, not leaving it for you to do, in a form that
9 will permit the Members of the full Committee to review and
10 comment, at least by our June - absolutely latest, June
11 meeting. And I would like to know if the Members of the
12 Committee would want to have a meeting just to hear the RSD
13 report if that's available in April. Is it worth having a
14 meeting for one or two reports? What about the people who
15 fly up here? Marginal, rather wait and have the Committee
16 review the report? Gideon, did you want to comment? So if
17 the RSD report becomes available, then it seems like it
18 would be distributed to the Committee Members and that the
19 appropriate committee - do we have a committee that - don't
20 we have a committee where that fits in?

21 MR. CARLISLE: I'm sorry, that's going to be incorporated in the
22 future directions of Smog Check.

23 CHAIR LAMARE: Okay, so then that will feed in to the Committee
24 Report.

25 --oOo--

1 CHAIR LAMARE: Okay. Starting with the first committee, which is
2 the SIP Committee, I think that is a committee that Eldon
3 and I are on and Eldon was describing some difficulties with
4 the SIP, the timing of the SIP. And Eldon, could you report
5 back on that?

6 MEMBER HEASTON: Well, I think that there's more information
7 available now. That is one of the reasons why we were kind
8 of waiting was because we have to settle a few issues
9 between South Coast and ARB on that.

10 CHAIR LAMARE: This was the South Coast versus ARB issues.

11 MEMBER HEASTON: And so we know exactly what control measures
12 they're going to agree on and then once we have that then we
13 can make recommendations, even for the ones maybe they don't
14 agree on, but we ought to at least - maybe if you guys could
15 give me, Dean, a list or a summary or possibly - when they
16 get that report, that might be some meat for possible
17 inclusion in the committee report.

18 CHAIR LAMARE: Part of the difference between the two proposals
19 is that the South Coast has two measures to identify top
20 high-emitting vehicles on-road. So that would put RSD back
21 in the SIP committee also. So we need to review the South
22 Coast proposal, the ARB proposal, the McClintock report on
23 RSD, the upcoming ARB/BAR report on RSD in this Committee
24 report as well. And so maybe what we could do is Eldon and
25 I could try to kind of come up to speed on what they issues

1 are and let the Committee know where we are. But there
2 could potentially be some very big items there where we've
3 got differing opinions of different agencies where our kind
4 of a group approach could be helpful in sorting that out.
5 And we'd better get on it because that SIP hearing by the
6 ARB is coming right up.

7 CHAIR LAMARE: Smog Check Stations Performance, who's chairing
8 that committee? Jeffrey Williams? How's it going?

9 MEMBER WILLIAMS: It's going reasonably well and I have all
10 kinds of computer programs written and data now of 110
11 months of VID data ready and all this was supposed to be
12 really processed the last few days, but my computer died.
13 It was killed by Smog Check data.

14 CHAIR LAMARE: A brand new computer -

15 MEMBER WILLIAMS: Well, no, the computer was three years old now
16 and all it's done in its life is process Smog Check data,
17 but it died. I have a new one.

18 CHAIR LAMARE: You have a new one?

19 MEMBER WILLIAMS: I have a new one on order so I hope to have a
20 presentation on those results in May.

21 CHAIR LAMARE: Great. And maybe we'll have something back from
22 Sierra Research fairly soon. Rocky, you were going to
23 follow up on that?

24 MR. CARLISLE: Yes, I'm going to follow up on that.

25 CHAIR LAMARE: Okay. Any questions about that committee work?

1 CHAIR LAMARE: Future Directions of Smog Check. Who's the chair
2 of that committee?

3 MR. CARLISLE: I apologize, I do not have my list. I think
4 everybody has a list of the projects except me.

5 MEMBER HEASTON: Future Directions is Roger and Eldon.

6 CHAIR LAMARE: Roger and Eldon. Mr. Kracov?

7 MEMBER KRACOV: I just wanted to go back on the station
8 performance issue.

9 CHAIR LAMARE: Yes.

10 MEMBER KRACOV: I just wanted to emphasize I think some of these
11 things were brought out with our discussion of the direction
12 to Gold Shield at the last meeting and just how important
13 this issue is in light of all the work that Jeffrey and
14 Emily have presented to us and also I think in light of the
15 information that we put together and extracted from the
16 agencies with regard to the Horton - was it the Horton
17 letter last year about the direction of how many cars are
18 going and all those things I just thought - I just want to
19 reemphasize that it will be great to get to the bottom of
20 some of these things so that when issues come up like last
21 week in discussing Gold Shield referrals or other things
22 that we armed with information that makes this Committee
23 comfortable and that we really probe the agencies,
24 particularly ARB on some of these issues.

25 CHAIR LAMARE: Thank you. So we had gone on to Future

1 Directions. Dennis DeCota?

2 MEMBER DECOTA: Would it be possible - how do I do this
3 without - this issue of actual performance, station
4 performance. We have Sierra due with a report, Sierra has
5 done a report on it previously in comparing, I think it was
6 2002 that it did. Should we have maybe an outside
7 consultant look at this also, other than just the Committee?
8 You know, somebody like maybe Mark Carlock, take a look and
9 work with us on this issue or something so that we had
10 covered the bases, so to speak?

11 CHAIR LAMARE: Jeffrey?

12 MEMBER DECOTA: And in no means am I downplaying, Jeffrey, any
13 of the work that you're doing. I just -

14 CHAIR LAMARE: Well, we need a proposal. Maybe the Executive
15 Director could put together a proposal for the Members of
16 the Committee to review for an outside consultant to provide
17 information and analysis, an independent point of view on
18 station - Smog Check station performance issues.

19 MR. CARLISLE: With regard to that, that's certainly something
20 we can do, but we should do it sooner rather than later, and
21 the reason I say that, we will probably have some money left
22 in our budget where we could actually pay the consultant to
23 conduct that analysis. After the fiscal year, I don't know
24 what our new budget will look like. This year we'll
25 probably have enough to where we could pay that consultant

1 upwards of \$15,000.00 and still be comfortably within our
2 budget. I know we looked at - I got a bid from Sierra
3 Research on some analysis and they wanted \$17,000.00, but
4 part of that was predicated on them actually doing some
5 calculations which we already have the data for. In other
6 words, they were going to recalculate the F-probs or the
7 probability of failures. And I think we already have the F-
8 probs in a dataset.

9 CHAIR LAMARE: Mr. Nickey?

10 MEMBER NICKEY: Shouldn't we kind of wait until the results from
11 the Sierra Research are in before we decide whether we want
12 to have somebody second guess it?

13 CHAIR LAMARE: Well, you asked a question and my response is
14 that I don't know when Sierra Research is going to bring
15 forward anything on station performance. What I know is
16 that the Air Resources Board has a contract with Sierra
17 Research and the contract, as I recall, is for products
18 stretching into 2008 and I know of no scheduled products
19 that sets a deadline any time near our deadline for getting
20 out a report to provide additional information on station
21 performance. I think that what we're looking for from
22 Sierra Research is - next, the next product that we're
23 looking for is an analysis of why vehicles that have failed
24 Smog Check are being fixed and passed, then refail at 40
25 percent plus within six months of Smog Check and why

1 vehicles that passed Smog Check fail roadside at a level of
2 20 percent within six months. Those are the questions that
3 I believe Sierra Research is going to report back to ARB and
4 BAR about next. And so they're going to be looking at a
5 variety of reasons and sorting through what percentage of
6 the problem can be attributed to each reason and I don't
7 know the extent to which station performance is in that
8 list. So obviously, we'd expect it would be, but I don't
9 have any expectation that we're going to have more Sierra
10 Research information to go on for this report. In the
11 meantime, we've had lots of reporting from Jeffrey about
12 different pieces of information and he's working on some new
13 pieces of information. And it seems a reasonable request to
14 me that if we have \$15,000.00 left in our budget and we
15 haven't seen fit to program that money - now, I did hear you
16 say, Rocky, that you had another research proposal out
17 there, that you had put forward to Sierra Research that you
18 had gotten a proposal on, so how would that compare with
19 what Dennis is talking about?

20 MR. CARLISLE: That wasn't a formal proposal. That was kind of
21 the back of the envelope calculation, if you will. Steve
22 and I talked about some analysis relative to station
23 performance and so I just ran it by Sierra Research to get
24 an idea what that kind of analysis would cost and it came
25 back at about \$17,000.00. And it involved essentially

1 statistical process and controls for the three station
2 types. They've done this kind of analysis before in other
3 states and so it's just a different approach, if you will,
4 for the comparison of test-only, test-and-repair, and Gold
5 Shield.

6 CHAIR LAMARE: Smog Check Station Performance, that committee
7 consists of Jeffrey and Dennis. And Dennis has suggested
8 that the remaining research budget that we have be allocated
9 to that committee to bring in for our - to support our
10 report for this year on that subject. So I'm going to take
11 that as a motion, Dennis -

12 MEMBER DECOTA: Yes, please.

13 CHAIR LAMARE: - that you would like to allocate the remaining
14 research budget to the Smog Check Stations Performance
15 committee, but you would like the committee to work with our
16 Executive Director to define a research, an RFP, that you
17 would like for the Committee to authorize the Executive
18 Director and the subcommittee to move ahead with advertising
19 and getting bids on a proposal. If we're not going to meet
20 in April, then I think we really need to authorize the
21 Executive Director to move ahead with the contract without
22 any further review by the Committee. Is there a second?

23 MEMBER HISSERICH: I'll second it.

24 CHAIR LAMARE: Seconded by John Hisserich. Okay, now, do we
25 have to have public testimony on the motion?

1 MR. CARLISLE: Yes, ma'am.

2 CHAIR LAMARE: Okay. I recognize Mr. Ward and then Mr. Rice.

3 MR. WARD: Madam Chair and Members, Randall Ward, California
4 Emissions Testing Industries Association. I'm a little
5 frustrated and I feel like I've put forth a good deal of
6 energy, and others have as well, with regard to a request
7 that the chairman made, the former chair, made of the
8 industry and Mr. Carlisle, probably last September
9 timeframe. And as a consequence, Mr. Carlisle convened at
10 least three meetings where the industry was together talking
11 about issues relative to performance, what was important,
12 what wasn't important, the kinds of things that Steve -
13 Dr. Gould and Rocky felt were important, and those
14 discussions really were trying to crystallize and synthesize
15 that information. The issue of performance is an extremely
16 ambiguous term. And prior to giving the Executive Officer
17 the authority to initiate a contract for a specific type of
18 study, I think this Committee should be allowed to finish
19 what it started. I have not heard anything. The meetings
20 were cancelled in December as a result of the holidays and
21 nothing has happened since. And I envisioned them as being
22 productive or I wouldn't have attended, I wouldn't have
23 prepared information that was requested by your Executive
24 Officer. Secondly, on this committee, this is no criticism
25 of Mr. DeCota, but he has a parochial interest in this

1 issue. I don't think he should be on the committee, okay,
2 on the subcommittee. It should be two people that do not
3 have an interest. Thirdly, with regard to Mr. Williams -
4 Dr. Williams' information and the kinds of things that he is
5 doing statistically, I think those things should be studied.
6 In other words, they're presented to us as I did this.
7 There is nothing that allows us to raise any questions or
8 issues that had he taken the opportunity to ask might have
9 considered important. I've raised a number of issues
10 relating to data and statistics that I think are
11 particularly important that, to this point, have been
12 ignored. So in any event, those are my comments. Thank
13 you.

14 CHAIR LAMARE: Thank you, Mr. Ward. Mr. Rice? I just would
15 comment that there's another committee called Smog Check
16 Program Incentives. We haven't talked about that yet, but
17 that's what we thought the meetings were about. Mr. Rice?

18 MR. RICE: Yes, good afternoon. Bud Rice, Quality Tune-Up
19 Shops. Two quick things. One, I would echo with Mr. Ward
20 in saying that industry has put a number of things on the
21 table in terms of what we'd like to see in terms of
22 performance evaluation. I'd almost like to see us
23 crystallize that to the extent that when you then go out and
24 try to get somebody to comment on that, that's the criteria.
25 Otherwise, they'll come back with another whole set of

1 criteria and we're chasing some other rabbit around the
2 hole. So I'd like to see that stuff crystallized a little
3 bit. And then in terms of having Rocky empowered to go do
4 the contract and finish off the contract, and I know Rocky
5 and I like Rocky, but if I was sitting on the Committee, I'd
6 like to see him get it all the way to the goal line, have
7 you guys have one more chance to take a look-see and then
8 either by email or whatever you want to do, say, this makes
9 sense to me, Rocky, you've got a green light with my vote,
10 and then off he goes. One last check, one last set of eyes
11 from you guys prior to pulling the trigger. Thank you.

12 CHAIR LAMARE: Thank you, Mr. Rice. Other comments? Dean
13 Saito?

14 MR. SAITO: Just one note on station performance. I think we
15 heard last week from Mr. Carlock that the EMFAC model does
16 not take into account performance model. In fact, it
17 doesn't distinguish between test-only and test-and-repair.
18 I think that's something that this Committee needs to
19 address as to - I think we heard Chief Mehl suggest that it
20 should, but, in fact, the mobile source model doesn't and I
21 think that's something that this subcommittee needs to look
22 into and address once and for all.

23 CHAIR LAMARE: Thank you. Other comments? Rocky?

24 MR. CARLISLE: Yes, going back to Randy Ward's comments. You're
25 absolutely right. The meetings were on incentives, they

1 weren't on performance measures. They were on incentivising
2 consumers, incentivising stations, and incentivising
3 technicians. The other issue, I don't have a problem with
4 waiting on the contract, the only problem is, we're going to
5 be pushed into the next fiscal year. Because the end of
6 June is the end of this fiscal year and to get a contract,
7 it's labor intensive and it's time-consuming.

8 CHAIR LAMARE: Okay.

9 MR. CARLISLE: I'm not suggesting that you should give me any
10 special authority for the contract. What I'm suggesting is
11 if we're going to do that and undertake that road, we need
12 to do it posthaste because even if entails another special
13 meeting prior to the contract.

14 CHAIR LAMARE: Right. Okay, I'm going to recognize two Members
15 of IMRC and then Randy Ward wants to have another comment.
16 Gideon, did you have yours up? Okay, John?

17 MEMBER HISSERICH: My question was the expenditure of that money
18 to do this doesn't have to occur in the fiscal year, it has
19 to be allocated in the fiscal year?

20 CHAIR LAMARE: Encumbered.

21 MR. CARLISLE: It has to be billed, yes.

22 CHAIR LAMARE: No, it doesn't have to be billed. It needs to be
23 encumbered with a contract.

24 MR. CARLISLE: Yes, it's got to be encumbered, yes. The
25 contract has to be in place.

1 MEMBER HISSERICH: Okay, so basically what I'm asking I guess is
2 if it's by the end of June, if the group met in May and saw
3 a draft proposal, the question would be could you get a bid
4 out, do it, and then encumber it?

5 MR. CARLISLE: No.

6 MEMBER HISSERICH: Okay, so that's your concern on the timing,
7 okay. Thanks.

8 MR. CARLISLE: Right.

9 CHAIR LAMARE: Gideon?

10 MEMBER KRACOV: Just a follow-up to John's question, if you were
11 to put together some sort of outline as to what the bid
12 would look like and if the Committee were to do that along
13 with you, Rocky, and were to solicit some responses, would
14 we be able to do that by May so that this Committee then in
15 May could review those responses and then make a decision as
16 to whether to encumber the funds? Is there enough timing to
17 do that on both before May or before June 31st or 30th?

18 MR. CARLISLE: We could get the request for proposal out and we
19 could get the bids, we could receive bids. If you're
20 suggesting we wait to award the bids, that's almost
21 automated based on low bid. There are other criteria we
22 could have into the RFP, but we could probably do that mid-
23 May and I'm guessing we'd be okay, yes. If all the other
24 footwork was done prior to that.

25 CHAIR LAMARE: Could I just clarify with you that this Committee

1 is able to contract with research from Sierra Research under
2 the ARB's existing contract and doesn't have to go through a
3 bidding process, because ARB is willing to provide research
4 support to this Committee from its contractor. Isn't that
5 correct?

6 MR. CARLISLE: That is correct, but when we've looked at that,
7 it's been easier said than done, if you will. I don't
8 know - I know there was some research money left on the
9 Sierra Contract, I don't know if they can do it for us
10 direct or if it's got to be vetted by ARB before it comes to
11 us.

12 CHAIR LAMARE: But I believe that we can draw a distinction
13 between the process of going out on our own completely
14 independent of ARB to encumber a contract with a consultant
15 for advice, versus working with the existing structure and
16 just getting some additional data runs or some additional
17 analysis or a report specific to the IMRC's questions.

18 MR. CARLISLE: Absolutely.

19 CHAIR LAMARE: So there really are several options here. It
20 does seem late in the year to be talking about going out to
21 seek an independent consultant on our own. I recall when we
22 did the consumer survey that it was extremely time-consuming
23 in terms of getting DCA and DCA's legal counsel to approve
24 our contract and we were substantially delayed in
25 implementing that contract and it did not come into play,

1 the research results, for another year. So I am a little -
2 I'm less than confident that we could bring in an
3 independent consultant this late in the game. And one
4 reason that I like the motion of delegating to the Committee
5 and the Executive Director was that it allows us to have the
6 flexibility to move ahead and explore our options with the
7 research assistance that's available to us without having to
8 go through a full-blown RFP process looking for someone who,
9 right now, we don't really know who that is or what their
10 qualifications are or what they're going to be expected to
11 do for us. It's just a little late. Are there other
12 comments on the motion to provide the Committee with
13 consulting assistance? Jeffrey?

14 MEMBER WILLIAMS: I guess Randy Ward's comments could be put
15 another way. It would nice to have written documentation.
16 If I make a presentation or Emily Wimberger to make it not
17 about me, that's certainly true and I think peer review is
18 an important thing to do, so I'm not arguing against that.
19 Written reports come at a substantial cost in that it's a
20 lot easier to wing a PowerPoint presentation than to write
21 everything down. I'm not saying they shouldn't be written,
22 it's just a lot more work.

23 CHAIR LAMARE: Indeed.

24 MEMBER WILLIAMS: So if what Randy Ward's saying that it might
25 be useful to have me try to write down say, redo the

1 Sample D study again, I'm in a position to do that more
2 emphatically now, and then we'll try to put it out for some
3 peer review and maybe then a consultant would be paid to
4 peer review it, or several of them would be. I think that
5 would be a sensible use of funds. I don't think that having
6 a consultant just look at one aspect of these issues is
7 going to be that useful to us, because it's a little too
8 complex.

9 CHAIR LAMARE: Rocky?

10 MR. CARLISLE: With regard to the Sample D analysis, I think
11 that's been, to some extent, peer reviewed by other
12 agencies. I know ARB - or BAR redid that sample, came to
13 the same conclusion. Sierra Research redid that sample and
14 they also came to the same conclusion.

15 CHAIR LAMARE: Yes, but we have none of this on the record.

16 MR. CARLISLE: We don't have it on the record, no.

17 CHAIR LAMARE: We have no written response to our - that seems
18 like the minimum that needs to happen is that we get a
19 letter from each of them to that effect. Other comments?

20 MEMBER DECOTA: Only - Madam Chair, Dennis DeCota. Only that
21 the whole idea of getting this assistance is exactly what
22 Jeff just eluded to and his comment was to give it
23 substantial creditability as far as our annual report.

24 CHAIR LAMARE: Well, we do have a motion.

25 MEMBER HISSERICH: If I may, Madam Chair? I'm not clear exactly

1 at this juncture where we are with the motion. This would
2 be to authorize the Executive Director - and is that with
3 the assistance of the subcommittee or -

4 CHAIR LAMARE: Right, with the guidance of the subcommittee.

5 MEMBER HISSERICH: - to craft a - or to consider the possibility
6 of hiring a consultant with -

7 CHAIR LAMARE: To craft a proposal.

8 MEMBER HISSERICH: That we will or we won't review?

9 CHAIR LAMARE: That we will not review for a total of not to
10 exceed \$15,000.00.

11 MEMBER HISSERICH: And that - just because I seconded this, I
12 want to make sure what I seconded, and this is going to be a
13 review of the station performance issue; is that correct?

14 CHAIR LAMARE: To support the Committee and its work on the
15 review of station performance issues.

16 MEMBER HISSERICH: Okay. And -

17 CHAIR LAMARE: Do you want to withdraw the second?

18 MEMBER HISSERICH: Yes, I will because I'm a little confused.

19 CHAIR LAMARE: Okay, that's fine. Okay, so we have no motion on
20 the floor and I think our other option is to have a meeting
21 in April to - perhaps it should only be a Smog Check Station
22 Performance committee meeting, but if the Committee and the
23 Executive Director believe that they need this support, they
24 need to be prepared to have a meeting in April with an
25 agenda item that's pre-prepared and noticed for this agenda.

1 So I see a couple of options ahead. One is that you could
2 use this time next month to have this committee come and
3 discuss these issues and be in a position to then recommend
4 something to the full Committee on further research that's
5 necessary or support, consulting assistance; or we could
6 have the whole Committee here to work on these issues and
7 any others that are going to come up here on the next half
8 hour or so on our report. Any other comments on this item?
9 Mr. Nickey - oh, sorry, Randy, Randy Ward. And I do agree
10 with Randy that we should rethink our Committee composition
11 that maybe this is not the best committee for Dennis to be
12 on and maybe we need to juggle some committee assignments or
13 notice those committee meetings for public -

14 MALE: Madam Chair? Weren't we having open discussion based on
15 the motion, but the motion's been refrained - withdrawn, I
16 should say.

17 CHAIR LAMARE: The motion is withdrawn.

18 MALE: So there shouldn't be anymore public comment.

19 CHAIR LAMARE: True, but Randy had indicated his desire to speak
20 before that.

21 MR. WARD: This is just procedural and it's from a hat that I
22 wore in the past. I believe by vote of this Committee, you
23 can encumber the money and it doesn't have to be to a
24 specific contract or necessarily nailed down to exactly what
25 you want it to do.

1 CHAIR LAMARE: Thank you.

2 MR. WARD: So you could encumber this money by vote as long as
3 there is some degree of specificity as to what it's intended
4 for.

5 CHAIR LAMARE: Thank you, okay.

6 MR. WARD: And I do have another comment, but I think -

7 CHAIR LAMARE: It was about the motion?

8 MR. WARD: Yes.

9 CHAIR LAMARE: Yes, no motion. So I just would advise Dennis
10 and the rest of the Committee that I think there's a point
11 here about the committee composition. Let's go on to Future
12 Directions of Smog Check and who's in charge of that
13 committee?

14 MR. CARLISLE: Once again, I don't have that printout. I had
15 prepared them for this meeting and I'm not sure what
16 happened to them.

17 MEMBER HEASTON: Roger and I, Eldon. I think a lot of it still
18 stems from the same issues as the SIP is that we need to
19 take a look at what some of those proposals are and then
20 there's a few issues that Roger can address, I'm sure.

21 CHAIR LAMARE: Other comments on Future Directions of Smog
22 Check? I think it really needs to be well beyond the SIP,
23 because one of our needs here is to get a vision of where
24 we're going with Smog Check, and what we're becoming aware
25 of are so many different programmatic directions that are

1 headed not necessarily in the same direction, and, of
2 course, you've got to start with what's proposed in the SIP,
3 but as was mentioned in the forum in Southern California
4 last week, there are OBD issues, implementation issues, that
5 are not in the SIP that are ready where other states are
6 exceeding what we're doing and we need to bring those issues
7 to the table and get them out in the public arena. That's
8 our job. So I would like everyone who has issues about
9 where the Smog Check is going, what it's going to look like
10 in 2010, what it's going to look like in 2014, to write
11 these up in an email and send it to Rocky and Rocky will
12 send it to Eldon and Roger and probably to the rest of us
13 and make sure that this committee is encompassing everything
14 that we want to talk about when we envision a future Smog
15 Check Program. Things are changing out there. We've got
16 diesels, we've got - should we be considering heavy-duty
17 Smog Check in our Committee? We don't have the legislative
18 authority, or do we? Where are we going with all of this
19 whole package, RSD, OBD monitoring? I'm very intrigued by
20 the proposal that OBD III monitoring, remote monitoring of
21 OBD systems begin with voluntary participation through
22 licensed compliance stations. I think we need to look at
23 that. Other comments? What do you have up here on the -

24 MEMBER HISSERICH: That's the list.

25 MR. CARLISLE: That's the subcommittee list.

1 CHAIR LAMARE: Thank you.

2 MR. CARLISLE: I don't have the printed copy, but I do have it -

3 CHAIR LAMARE: Excellent, good thinking. So OBD III should be
4 on here. Program avoidance, Bruce Hotchkiss and Jeffrey
5 Williams. Bruce, do you want review where you're at on
6 that? No?

7 MEMBER HOTCHKISS: I don't think we're ready. Jeffrey seems to
8 have something.

9 CHAIR LAMARE: All right.

10 MEMBER WILLIAMS: Well, as Rocky said, there's now the data on
11 the out-of-state registrations or whatever, international
12 registrations or -

13 MR. CARLISLE: IRP, yes.

14 MEMBER WILLIAMS: I thank you. But another source of data - I'm
15 always looking for data here, is to be made available by
16 Dean Saito and the South Coast Air Quality Management
17 District and their Smoker's Hotline, is that what it's
18 called? Smoking Vehicle Hotline. It's not when you see
19 somebody smoking in the car, it's when the car is smoking.
20 We supposedly have - we'll get some of those call-in vehicle
21 plates and I will match them to the VID data. What we're
22 fearful what we'll find - or hopeful, I'm not sure what
23 emotion here, is that those cars chronically have failed
24 Smog Check, and in fact, probably are the repeated failures,
25 so that will be an interesting result. And I believe I can

1 do that statistical analysis quite simply and soon.

2 CHAIR LAMARE: I think that would be a great way to bring up the
3 issue of what do you do about chronic failures in that
4 committee report. Other comments on program avoidance?
5 Smog Check Program Incentives. Had some meetings on this
6 and where are we going?

7 MEMBER NICKEY: Well, I'm unaware of the meetings until this
8 moment or moments ago. In terms of this particular thing
9 for the incentives for the technicians in the shops,
10 terrific that's occurring, I'd be interested to hear more
11 about them. The one that troubles me in terms of how to do
12 it is incentives for consumers or for motorists, a group
13 that sometimes represent here, I don't know whether the
14 carrot or the stick works in this. I think there were
15 probably - have used about as much of the stick as we can
16 and I'm not sure how to get the carrot into it and make
17 people understand that it's really something that's in the
18 larger sense a desirable public benefit to have this occur.
19 If the health agencies that spend as much effort as they do
20 on other aspects of incentivising folks to recycle and not
21 smoke and do other good things could be similarly
22 incentivised or motivated to incentivise the public to get
23 their cars cleaned up because it's a good thing to do, it
24 would be terrific. I'm not sure exactly how to do that, but
25 I think that might be one avenue to try to get folks to at

1 least think in those terms. Actually, the hybrid vehicles
2 are probably, to some degree, a piece of that. There are
3 some incentives for folks - incentives, of course, are also
4 probably related to mileage and high-vehicle lanes and all
5 that stuff, but there is some evidence of public motivation
6 to do a better thing in terms of cleaning up the vehicle
7 emissions, so we'll have to work more on that and think more
8 about that. And then in terms of the things that are the
9 incentives for the shops and for the technicians, I'd like
10 to hear more about that.

11 MR. CARLISLE: The meetings we had, as Randy alluded to, we had
12 several meetings, but toward the end of the year, it got a
13 little tough to get, number one, a meeting room, get
14 everybody so they could be there at one time, and the intent
15 was to get some kind of consensus from those stakeholders
16 before I brought it to the Committee. There's numerous
17 ideas out there, but consensus is a real issue. You've got
18 to get everybody to agree on something. That's what we were
19 working on and I will have those meetings again, but to date
20 we haven't.

21 CHAIR LAMARE: Well, this was proposed from the industry as a
22 report topic area that we should be working on and so I
23 think we really need to get focused on it and produce some
24 results, whether they're consensus results or not. If there
25 were notes from the prior meetings about the different

1 ideas -

2 MR. CARLISLE: I will provide those, yes.

3 CHAIR LAMARE: - those need to go out to the Committee Members.

4 I really think that here is where the area of program
5 avoidance might also be included. What are the incentives
6 to motorist not to avoid the program? What incentives can
7 be put forward to entice those who aren't complying with the
8 program to do so? In fact, I would be somewhat persuaded
9 that these two areas ought to be merged unless there's more
10 meat to the program avoidance report. And Jeffrey, you're
11 working on three reports. I think that's - you're going to
12 have to get a consultant and wrap up - so I was very struck
13 in Diamond Bar that the panelists in the roundtable had
14 really nothing to say about incentives. What they wanted to
15 see happen were more sticks, more - a tighter structure to
16 the program to improve performance and that what the
17 industry perceives as an important breakthrough for the
18 program to be incentive-based is not shared by others who
19 are concerned about Smog Check; consultants, experts, public
20 members. And that the only incentives that I have heard
21 about that stick in my mind are incentives about the size of
22 the cert, how much money you pay for a cert or how much
23 money a shop pays for a cert, and \$8.00, I'm not persuaded
24 that that's any kind of an incentive. So I think it's
25 incumbent upon those who have argued for an incentive

1 program, the members of the industry, to come forward with
2 some really exciting proposals that turn people on and get
3 those aired here in this Committee and let's do it soon. So
4 that perhaps is another committee meeting that should be
5 noticed and we should have open to all IMRC Members and the
6 committee should be hearing presentations and we should
7 shine some light on what could be incentives for motorists,
8 shop owners and technicians. What I'm hearing so far, and,
9 obviously, we haven't gone very deeply, but what I'm hearing
10 so far is there's not a lot of there, there. I recognize
11 Dean Saito.

12 MR. SAITO: I think from the South Coast perspective, we're
13 hearing a lot of concerns about our voluntary remote sensing
14 program where the consumers - it's a voluntary participation
15 program where we're offering up to \$500.00 in repair, or up
16 to \$2,000.00 to scrap a vehicle, if they're low-income
17 eligible. And the concern is that's not going to be enough
18 incentive to get a consumer to participate in the program.
19 What we've tried to add to this mix is that we're only going
20 to invite those consumers who've identified as a high-
21 emitter as those consumers who've had at least one failed
22 Smog Check test so they would know what the value is of a
23 \$500.00 repair or a \$2,000.00 worth of scrap. But if that's
24 enough to get a certain percentage of consumers to
25 participate in the program, then we're going to be hard-

1 pressed to make this program cost-effective and achieve the
2 cost-effectiveness threshold under the Moyer program of
3 \$14,300 and that's going to be bad news in terms of making
4 districts' remote sensing programs successful because we
5 won't have a source of funding in using AB923 funds for this
6 purpose.

7 CHAIR LAMARE: What is your anticipated timeframe now on getting
8 some input back from your program?

9 MR. SAITO: I think we just heard from ARB that approval of our
10 program is eminent and I was just given the authority to go
11 forward with the program. We just received our first wave
12 of permit approvals from Caltrans for being on the freeway
13 onramps, so that's good news. We're going to be able to
14 capture the commute hours from 6:00 a.m. to 7:00 p.m., so we
15 anticipate - that was going to be a very important criteria
16 for us to show cost-effectiveness if we were able to capture
17 the commute hours with that volume of vehicles. So we
18 anticipate the program - we're going to start our program
19 probably this week.

20 CHAIR LAMARE: All right. Thank you. Mr. Solorzano?

21 MEMBER SOLORZANO: Yes, I had a question. How does your agency
22 perform outreach to the low-income community to promote the
23 incentive programs you spoke of?

24 MR. SAITO: This program - one of the guidance criteria by CARB
25 that they've specified under AB923 is that we not advertise

1 a program because they don't want - they're fearful that
2 we're going to get cars that typically don't drive on the
3 road, just to participate in the program to take advantage
4 of the scrappage amount. So we're not advertising the
5 program as to where the remote-sensing teams are going to be
6 located. And so really the purpose of this is to identify
7 high-emitting vehicles actually driving on the roadway. So
8 we haven't done a whole lot of outreach, whether it be to
9 low-income communities or to whoever, because we're just
10 trying to identify high-emitting vehicles on the roadway and
11 then we'll subsequently contact the consumers offering this
12 program.

13 MEMBER SOLORZANO: But if there's no advertising, isn't there
14 any forum for public information?

15 MR. SAITO: Forum for public information -

16 MEMBER SOLORZANO: Yes, how is public - this is public
17 information, right?

18 MR. SAITO: Yes, it is.

19 MEMBER SOLORZANO: Right.

20 MR. SAITO: And we have - we do it on our website, we have this
21 program, it just doesn't advertise the location of where
22 these remote sensing teams are. The governing board did
23 approve \$4 million for this program, so -

24 CHAIR LAMARE: Dean, tell him how the owner - the vehicle owners
25 know about the program.

1 MR. SAITO: Oh, the vehicle owners are going to know about the
2 program through correspondence through our contractor.
3 We've contracted out with the Foundation of California
4 Community Colleges -

5 MEMBER SOLORZANO: Okay.

6 MR. SAITO: - to reach out and notify the consumer once their
7 vehicle has been identified and then through the Foundation
8 of California Community Colleges, they will inform them
9 about the low-income eligibility program.

10 MEMBER SOLORZANO: And what type of timeline from the date that
11 they receive the notice of the failure to getting
12 information from the community college that they could
13 qualify for this program?

14 MR. SAITO: Well, they'll set up an appointment and hopefully it
15 will be within one or two weeks of notification. They'll
16 set up an appointment and collect all that information upon
17 arrival at the referee station.

18 MEMBER SOLORZANO: Okay, thank you.

19 CHAIR LAMARE: Okay, so, so far we've identified two committees
20 that will need to do some really intensive work in the next
21 month. One is Smog Check Station Performance, the other one
22 is the Program Incentives. Now what about Particulate
23 Matter Testing, Gideon?

24 MEMBER KRACOV: I haven't done anything yet on this. I know
25 that this is an issue that I think has been brought up in

1 the South Coast SIP, we talked about this morning, but to a
2 certain extent, I'm really starting from ground zero on
3 this, so it's going to take some work.

4 CHAIR LAMARE: I know that I was responsible for adding this to
5 the list and you weren't here at that time and I thought,
6 well, here's something that Gideon will be very interested
7 in because it's not only a criteria pollutant, but a toxic
8 air contaminant. But given the results of the research that
9 we saw last week and that we, I believe, have in our
10 packets - or no, that will be on the website, about
11 particulate testing, you saw that and I really wonder if we
12 should try to - the colored smoke - I'd like to ask the
13 other Members of the Committee if they feel that this
14 committee is now timely. Because if this represents the
15 most research on particulate matter testing at this time,
16 should we be spending our time this year working on this
17 issue, or should we take Gideon's effort and put it into the
18 something more focused where we might be able to have a more
19 immediate impact?

20 MEMBER KRACOV: I have two comments. The first is, isn't this
21 possibly going to be something you can talk about in the SIP
22 subcommittee or -

23 CHAIR LAMARE: We could, but neither ARB nor the South Coast now
24 have particulate testing in their SIPs. We could address
25 it - it might be more in future directions, what's likely to

1 come up beyond the SIP.

2 MEMBER KRACOV: Maybe it can go in there. And the second

3 comment I have is, you can reassign me, but as long as it's

4 not to the Smog Check Station Performance subcommittee.

5 CHAIR LAMARE: Well said, Gideon. You knew where I was going

6 there, didn't you? Other comments about particulate matter

7 testing? And you're available for reassignment? But I

8 think maybe in future directions that particulate matter

9 testing should be included in the list of things to consider

10 in future directions. So you're refusing Smog Check Station

11 Performance.

12 MEMBER KRACOV: I'm not refusing, it's just not my first choice.

13 CHAIR LAMARE: Okay. Well, we need to put you somewhere, so

14 think about that. Moving on to - I kind of - but who's got

15 two assignments here? Eldon has two assignments, Jeff has

16 three. Jeff has to give up something.

17 MEMBER HEASTON: I can give up the Future Directions, I don't

18 mind.

19 CHAIR LAMARE: Eldon can give up Future and Gideon can move to

20 Future. But I still have a problem with what to do with

21 Dennis. High-emitter profile analysis. Jeffrey, do we need

22 a committee on this?

23 MEMBER WILLIAMS: Well, only to keep reminding the Executive

24 Officer that we would like to have a report from the group

25 that actually does it.

1 MR. CARLISLE: That's still forthcoming. What we're going to do
2 in the interim is have a staff meeting with BAR - BAR staff,
3 ARB staff, involved in the HEP.

4 MEMBER WILLIAMS: One way all these things connect is through
5 the high-emitter profile because it's whether cars are
6 directed or not and that's affecting how we can measure
7 station performance.

8 CHAIR LAMARE: Well, let's throw it into Smog Check Station
9 Performance then.

10 MEMBER WILLIAMS: In a sense, that's very similar.

11 CHAIR LAMARE: Can we do that?

12 MEMBER WILLIAMS: We can and that's how I was going to treat it
13 anyway. But it really is a big issue how that - not the HEP
14 as hypothetical works, but the actual implementation of the
15 HEP by - not by BAR but by their contractor and I think we
16 really want to hear about what is happening there. And so
17 that's why I thought it was a separate issue.

18 CHAIR LAMARE: Okay, but I think that's all background to Smog
19 Check Performance. The only reason that we talk about HEP
20 is because they're directed vehicles. So maybe we call it
21 directed vehicles and Smog Check testing performance or
22 something like that. I would propose that I go on that
23 committee, that Dennis goes on the SIP committee and becomes
24 a SIP expert. Do you want to think about it, Dennis?

25 MEMBER DECOTA: I have no interest in the SIP.

1 CHAIR LAMARE: You don't want to be interested in what the ARB
2 is going to be mandating on Smog Check? I think it's a good
3 one. Okay, well, we will suspend our discussion of
4 committee assignments since we don't have willing partners
5 to play blackjack here. But I think that is one way to go
6 as - to switch that out at some point or to find another - I
7 wish we could have three people per committee. I think
8 that's one of the reason why we don't have very functional
9 committees, because we only have two people per committee
10 and a three-person committee works much better for balance.
11 Are there any comments now on the report planning?

12 MR. WARD: Madam Chair, Committee Members, Randall Ward,
13 California Emissions Testing Industries Association. I
14 think we're talking a little bit about differences in
15 vernacular between incentives and performance measures
16 because literally everything that was discussed relative to
17 incentives had to do with establishment of some performance
18 measure so you could then have an incentive to show
19 improvement in performance. In fact, Dr. Gould was talking
20 about specific triggers in the data that could be used to
21 assess technician and station performance and then you'd
22 have some kind of incentive to try to track improvement to
23 see how your incentives work over time, but you did
24 literally have to have some measure of performance in place
25 to begin the work. I think Rocky and I may disagree.

1 Secondly, I find it kind of interesting that Bar Chief Mehl
2 is in today and she's talking about her outreach contract,
3 and I don't know what this is, \$4 or \$5 million. And once
4 again, this is one of the few issues that Dennis and I
5 likely embrace together. Industry didn't have any
6 opportunity to comment on that contract. The outline for
7 that contract was never presented to this Committee based on
8 all the testimony that you all have heard over the ensuing
9 years on customer - or consumer incentives and program
10 avoidance and all those kinds of things. And I, for one,
11 would have liked to have seen at least some statistical
12 basis for determining how this was going to somehow improve
13 the state of the Smog Check Program, either performance from
14 consumers or performance from technicians or performance
15 from station owners or reaction by the general public at
16 large, I don't know. They're going to spend \$4 or \$5
17 million and what was the basis for that? I frankly think
18 that's something this Committee has a clear responsibility
19 for and it shouldn't be debated in a vacuum. It should be -
20 there should have been some elaboration on it.

21 CHAIR LAMARE: Okay, thank you for your comment.

22 MR. WARD: In any event, on the issue of incentives and station
23 performance, I think it is a difficult issue, but I think
24 that the industry can come together on the combination of
25 incentives and performance. I think it needs to be

1 bifurcated, though. I don't think there's a real connect
2 between the consumer relationship with the kind of thing
3 that we were talking about in this meeting and I wanted to
4 clear that up for you, Madam Chair.

5 CHAIR LAMARE: Thank you.

6 MR. WARD: Thank you very much.

7 CHAIR LAMARE: Okay. Anyone want to comment? I will say that
8 Chief Mehl has talked to us several times about her public
9 education contract and to the BAR Advisory Group about it.
10 And it has been traditional in the Bureau that they do
11 public education. They typically have a several million
12 dollar contract with a PR firm and they advertise about what
13 they do and why it's important and what the health benefits
14 are, so that was clearly not in our purview, it is not our
15 responsibility to do public education. So I guess I
16 disagree. Any other comment? Bruce?

17 MEMBER HOTCHKISS: Well, I would agree with you. BAR has a
18 variety of different areas that they're involved in. It
19 isn't just smog inspection and I know that they do outreach
20 on all of them. They have - I know they have a new auto
21 body program that they're trying to promote. We do - I say
22 we because I do work for the department as well, consumer
23 protection as far as general auto repair. I don't know, I
24 didn't hear Chief Mehl say specifically that they were
25 awarding the contract on the Smog Check Program. I heard

1 her say that they were looking at a public outreach program.

2 CHAIR LAMARE: Okay, thank you. Now, another thing I'm hearing

3 here today is that in terms of our final report, we may want

4 to take our two subcommittees, one on Station Performance

5 and one on Incentives, and meld that together in some

6 recommendations. In other words, I don't think we should

7 assume that just because we have different committees

8 looking at different aspects of this that we wouldn't - when

9 we get around to the final report, have some blended

10 analysis and recommendations to make based on the total

11 committees' work which is done in this forum and the public

12 forum. On the committee side, we have these two-person

13 committees based on the Bagley-Keene Act, admonition that we

14 must advertise as public hearings any meeting with three or

15 more members. So we will want to do probably some public

16 meetings on Committee work, but we don't want to have every

17 committee consultation have to be noticed for ten days and

18 in an accessible room where the public can attend. Any

19 other comments on the report in general, where we're going

20 with this, and your specific assignments? I think by next

21 meeting that we have as a whole Committee, we should be

22 getting firm on our committee assignments and what we're

23 going to be doing so we can switch up to them and we can

24 kind of recombine the committees, if needed, but we should

25 make those decisions soon. No more comments?

--oOo--

CHAIR LAMARE: Executive Officer's Activity Report?

MR. CARLISLE: So some extent, we went through it with these report planning issues, but some of the things, for example, like I mentioned earlier, I just did receive the IRP data from DMV, so I've been in the process of creating a database for that so we can import that data. I've also been working with Cindy Stover at the foundation and she's also been working with the DMV data and the DMV database, so we're working together to create a process where we can - it makes it a little bit more friendly when we import this data because right now it's - I'm sure as Dr. Williams would attest, it's a pretty ugly format when we receive it. And so we'd like an easier process and we're actually working on that. With regard to other activities, I had spoke with Eldon Heaston and he expressed the desire to visit a couple centralized lanes in Arizona and Colorado to see how they work compared decentralized lanes, and so I wanted to put that before the Committee. I do have one out-of-state trip left that's not already spoken for. I've got one to I/M solutions in June, but I have one that I didn't use the first part of this year because I wasn't aware it had been approved, and so we can actually use it to go out of state on this trip if -

CHAIR LAMARE: So move - well, who - Eldon moves and who seconds

1 that Eldon can use that trip? Right, is that what the issue
2 is?

3 MR. CARLISLE: Eldon has his transportation paid for. I would
4 use that -

5 CHAIR LAMARE: You're going to use that for you to go. So
6 Jeffrey moves approval for the Executive Director to travel
7 out of state with Committee Member Eldon Heaston getting
8 research for the Committee and report back and -

9 MR. CARLISLE: And report back to the Committee, yes.

10 CHAIR LAMARE: And report back to the Committee and Gideon
11 Kracov seconded that motion. Any discussion? Any public
12 comment? All those in favor?

13 ALL MEMBERS: Aye.

14 CHAIR LAMARE: Anyone opposed? Any abstentions? So approved.
15 Is that it?

16 MR. CARLISLE: Okay, basically that concludes my report.

17 CHAIR LAMARE: Gideon?

18 MEMBER KRACOV: Yes, do you have any update for us on the status
19 of BAR's evap regs?

20 MR. CARLISLE: They're going through the process now. They've
21 taken all the public comment, so they're analyzing that and
22 that will be finalized and it will move forward in the
23 process. I'm not sure if there's anything that would compel
24 them at this point to change the regs, but we'll probably
25 know within about a month.

1 MEMBER KRACOV: And the second issue, just following from our
2 last discussion, so we have a certain amount budgeted,
3 \$15,000.00 to \$17,000.00, that we're not using for this
4 fiscal year. Do have any proposal as to what you want to do
5 with that? Should we bring it back to the next meeting?
6 Maybe you can just let us know what you think about that.

7 MR. CARLISLE: There are some equipment issues. We're probably
8 going to need a new printer. There's some of it that can be
9 allocated toward that as far as office equipment. So other
10 than that, no. And with State budgets, everybody is
11 always - it seems to be the norm to spend and not leave any
12 dime on the table and I'm not - we left several thousand
13 dollars on the table last year and I'm sure we'll do the
14 same this year.

15 MEMBER KRACOV: Thank you.

16 MR. CARLISLE: But it's - we added it in case we needed it for,
17 like I say, the consulting and the contracts, that kind of
18 thing.

19 CHAIR LAMARE: Mr. Nickey?

20 MEMBER NICKEY: Back to the statistical data from BAR, they
21 haven't updated the Executive Summary in quite some time.
22 Is there some reason for that that you know of?

23 MR. CARLISLE: Yes, that's the new NGET and -

24 MEMBER NICKEY: That's the new game, we don't get any
25 information?

1 MR. CARLISLE: No, it's coming, but they haven't completed that
2 part of the process yet. And I've been told by the end of
3 this year all that will be in place and so the Executive
4 Summary will once again be available.

5 MEMBER NICKEY: That means for two years we're not going to have
6 any data.

7 MR. CARLISLE: Well, they can backdate it. They've just got to
8 get the process in place. They're collecting the data on a
9 regular basis. It's just that you don't have the data
10 warehouse to manipulate the data and present it in the
11 format that it's been presented in the past.

12 MEMBER NICKEY: Old data is no data to me. I'm curious what
13 happened last month and the month before, not two years ago.

14 MR. CARLISLE: No, I understand. The data's available if you
15 want to manipulate it, it's just they don't have the
16 automated processes yet.

17 MEMBER NICKEY: Okay, I don't quite understand what manipulate
18 it means, but -

19 MR. CARLISLE: In other words, if you want to take a million
20 records and parse out the way they break out fail rates, for
21 example, by model year, they break out the number of initial
22 tests, they break the number of certificates issued, that
23 data is available, but it has just got to be processed so
24 that you get the result that you want. In other words, how
25 many tests were done. It's just in the raw data format

1 right now.

2 CHAIR LAMARE: Thank you. Okay. I know Mr. DeCota still wants
3 to talk about research consulting assistance for the report.
4 I would like to put that under 11, Future Agenda Items, for
5 now, since we didn't complete that and move on to the
6 legislative update and get that over with.

7 --oOo--

8 CHAIR LAMARE: So we're on Tab -

9 MR. CARLISLE: Tab 4.

10 CHAIR LAMARE: Tab 4, is there anyone here to talk about
11 legislative items? I see that Chris Morfas wants to address
12 the committee. Can we skip to that and then go back and
13 cover other things?

14 MR. CARLISLE: Absolutely. That would be AB616 and that's one
15 that we supported - we recommended in our report. We sent a
16 letter of support last week to Assemblyman Jones and you
17 have a copy of that letter in your packet.

18 CHAIR LAMARE: I believe that Mr. Morfas has passed around a
19 fact sheet on this bill; is that correct? Welcome, Chris.

20 MR. MORFAS: Thank you, Chair Lamare, fellow Committee Members,
21 fellow fans of the Smog Check Program. My name is Chris
22 Morfas. I'm the legislative liaison with the Sac Metro Air
23 Quality Management District. It's a pleasure to be here
24 today. We are the proud sponsors of Assembly Bill 616,
25 which as per the longstanding IMRC recommendation, would

1 institute an annual Smog Check for motor vehicle 15 years or
2 older while retaining current exemptions for those vehicles
3 not subject to the longstanding biennial program. And the
4 bill in its current form is introduced to do three simple
5 things; one, create that annual check to which I just
6 referred; two, it would steer proceeds resulting from the
7 two million new certificates that would result toward the
8 Consumer Assistance Program to provide additional repair
9 support and scrappage support as well for the people who
10 need it; and three, it would direct BAR, the Bureau of
11 Automotive Repair for those people watching at home, to
12 establish regulations by which they could exempt vehicles or
13 classes of vehicles that would be most likely to pass such
14 an annual check, the idea being to minimize the number of
15 passes that result from this legislation. So that's the
16 short of it. I've included in a packet, that I believe
17 Rocky has distributed, a fact sheet from Assemblymember
18 Jones' office, a sheet with some frequently-asked questions,
19 a copy of the bill itself, as well as a sample support
20 letter for those people or organizations so inclined to let
21 Mr. Jones or the Assembly Transportation Committee know that
22 you or your organization support the bill. The bill is
23 scheduled to be heard in the Assembly Transportation
24 Committee on April 16th.

25 CHAIR LAMARE: Questions for Mr. Morfas? Dennis DeCota?

1 MEMBER DECOTA: I can't find out exactly where I read this in the
2 bill, but I believe it says referred by test-only. Will the
3 bill - does the bill mean that due to the fact that there's
4 regulations in currently that give some parody between Gold
5 Shield CAP performing stations, the same parody in this bill
6 with test-only as far as referred vehicles to the program?

7 MR. MORFAS: Could you rephrase your question?

8 MEMBER DECOTA: What I'm asking you is I believe the bill
9 specifies vehicles directed by test-only.

10 CHAIR LAMARE: That all vehicles subject to this bill will be
11 directed to test-only?

12 MEMBER DECOTA: I believe it's Background on the opening fact
13 sheet page and I believe it would be the fifth paragraph,
14 are those directed to a test-only station qualify for up to
15 \$500.00 in repair assistance. There's proposed regulations
16 that will give Gold Shield CAP facilities parody with
17 direction of vehicles that is proposed regs by BAR. Will
18 this encompass those proposed regs, is my question.

19 MR. MORFAS: The legislation wouldn't effect those regulations
20 whether or not they're enacted. The legislation would
21 simply send money to the Consumer Assistance Program. It's
22 up to BAR as a regulatory agency to determine which
23 motorists are eligible to receive those CAP funds.

24 MEMBER DECOTA: You've answered my question, thank you.

25 CHAIR LAMARE: Mr. Nickey?

1 MEMBER NICKEY: Well, I'd just like to point out the wording on
2 the actual section here. Line 7 says "All funds generated
3 through additional inspection fees shall be deposited in
4 high," etcetera, etcetera. That sounds to me like what I
5 collect for an inspection fee is going to be confiscated.
6 Can't we say certificates?

7 MR. MORFAS: It's been suggested that the wording as came out of
8 leg counsel be improved in that way and that's something we
9 would certainly take under consideration. Our target is
10 certainly the certificate fees and not to imply that -

11 MEMBER NICKEY: I'm sure it is, that's -

12 MR. MORFAS: - charges for actually conducting the test are
13 going to be confiscated or anything like at all. The idea
14 is to use the \$8.25 for the certificates to support the
15 Consumer Assistance Program.

16 MEMBER NICKEY: I agree, it's just that it should be clarified.
17 I didn't think anybody's going to come out and confiscate my
18 inspection fees, but that's what it says.

19 MR. MORFAS: Right, thank you for pointing that out. This is
20 the official version of the bill. We wanted to include that
21 in your packet and of course the bill is subject to
22 amendments as we go through the process.

23 CHAIR LAMARE: Other comments? Thank you, Mr. Morfas. Best of
24 luck on your bill.

25 MR. MORFAS: Chair Lamare, thank you.

1 CHAIR LAMARE: Okay, continue with the legislative agenda.

2 MR. CARLISLE: Okay. A question for you, Madam Chair. Given
3 what our legal counsel stated this morning, do we want to
4 just focus on legislation that was a result of our report,
5 or do we want to cover the span of legislation that deals
6 with Smog Check?

7 CHAIR LAMARE: If I understand what legal counsel advised us
8 this morning that we would not be taking positions on bills,
9 but we would be in a position to advise legislators in cases
10 where their bills had something to do with items in our
11 reports or anything we had done research on.

12 MR. CARLISLE: Okay.

13 CHAIR LAMARE: As I understood your legislative tracking,
14 however, I thought it was your purpose to cast a net and see
15 what bills were out there that would have - be of interest
16 to the Committee given its scope and its work and many of
17 those bills we would of course not have any advice to give
18 the legislature, but it would have the Committee standpoint
19 of what other folks were proposing.

20 MR. CARLISLE: Correct.

21 CHAIR LAMARE: Okay.

22 MR. CARLISLE: Okay, so going back to AB99, there's been no
23 change on that. That's the vehicle pollution control for
24 alternative fuels. AB28 -

25 CHAIR LAMARE: Do you have a question, Mr. Nickey?

1 MEMBER NICKY: Well, I actually have a comment. There was a
2 question the last time we brought this one up about whether
3 it involved hybrid vehicles and just serendipitously I ran
4 in to the author on the plane as we were leaving the meeting
5 and I asked him and he said, yes, it was his intent to
6 include hybrid vehicles, not just move all vehicles to
7 totally alternative fuel -

8 MR. CARLISLE: Right.

9 MEMBER NICKY: - but he wanted to wait and see what the
10 hearings brought out, but he was open to hybrids.

11 CHAIR LAMARE: Thank you.

12 MR. CARLISLE: Okay. AB218 by Assemblywoman Saldana. That's a
13 recommendation we made, again, last year regarding late Smog
14 Check fees and that did pass through Assembly Transportation
15 yesterday. It goes on to the floor because the way it's
16 cast they don't think it's got any fiscal issues, but I
17 would respectfully disagree, so I think it might end up
18 coming back to the fiscal committee, only because there's
19 going to be issues with regard to programming and whatnot
20 for that bill. But right now it's on to the floor. And
21 there is significant support on that bill. I did add that
22 yesterday from American Lung Association, Bay Area AQMD, Air
23 Pollution Control Officers Association, which is CAPCOA,
24 Coalition for Clean Air, the Planning and Conservation
25 League, and the Sierra Club. And as of yesterday, there was

1 no opposition to the bill.

2 CHAIR LAMARE: Comments? Jeffrey Williams?

3 MEMBER WILLIAMS: Just to clarify, what was the vote within the
4 Transportation Committee?

5 MR. CARLISLE: He didn't have the vote for me.

6 MEMBER WILLIAMS: Oh.

7 CHAIR LAMARE: May you can email Jeffrey about that.

8 MR. CARLISLE: I will. The next one is AB255, the Smog Check
9 abatement increase. That hearing date was set for 3/8,
10 March 8th, and there's been no change. It's been referred
11 to the Committee on Transportation again. And AB616, the
12 hearing date for that, like Chris mentioned, is April 9th.
13 There is still no - as far as on the record, there is no
14 support or any opposition to that bill yet either. And
15 finally, SB23, that's the bill by Senator Cogdill relative
16 to the San Joaquin program. And there were amendments to
17 that. Basically what they did, they struck the word
18 'unified' from the text of the bill. That was the only
19 change. And the hearing date they had - as today, so I
20 haven't heard whether or not that hearing took place on that
21 bill.

22 CHAIR LAMARE: Thank you, Rocky. Any questions or comments from
23 Members of the Committee on the legislative report? Any
24 public comments on the legislative report? Okay, thank you.

25 --oOo--

1 CHAIR LAMARE: So now we are open for our general public
2 comments. Does anyone wish to talk to IMRC about anything
3 in our purview? Bud Rice? Mr. Noriega [sic]? Okay, Bud
4 Rice first.

5 MR. RICE: Good afternoon, Bud Rice, Quality Tune-Up Shops. A
6 little potpourri of disjointed comments if I could. The
7 first one is I think moving off into the future when you're
8 considering new things or things you want to talk about, I
9 know that the Chief came up and was talking about a new
10 piece of equipment and maybe making that modular-based,
11 which I think is a great concept. And I think moving
12 forward, anything that we may want to do in to the future
13 should have that kind of a mindset to it so it's self-
14 contained little modules that we put together and get away
15 from this big box, big solution theory and get it all down
16 to manageable pieces. The second one is that I know there's
17 been a lot of discussion regarding durable repairs. And I
18 know I've said it a couple of times and please bear with me
19 as I say it one more time, but there's really a number of
20 components that are in play when it comes to durable
21 repairs. There's the car. Sometimes it's a bad car and
22 even though you fix it, it's a bad car. There's also the
23 customer who's in play and so the public has a role to play.
24 And then certainly the shop has a role to play as well. But
25 in addition to that, it's the umbrella of the regulations

1 that the shops have to live under that also are in play in
2 this thing. The smog machine is really nothing more than a
3 go/no-go gauge. That's really what it is. And at the point
4 where a car passes a smog test, what are we supposed to do?
5 If it passes a smog test and we could get a more durable
6 repair by going beyond that, then we've got a problem with
7 the BAR saying we're over-selling stuff. I know I've said
8 that before, but that's the problem. The smog machine is
9 not performance based. It's a go/no-go gauge for us and
10 that's all we can do. So far as incentives go, we talked
11 about incentives - one thing, and I remember one of the
12 comments here was, but we've offered big dollars, we've
13 offered all this kind of stuff and we can't seem to get any
14 bang out of it, but one incentive might be that if you get a
15 big gap savings, a guy failed here and you've got all the
16 savings down here and he was able to get that through a
17 repair, you're probably going to end up with a more durable
18 repair, but maybe that guy gets to go a little bit longer
19 before his next Smog Check. So maybe if he's on a two-year
20 cycle, maybe he gets to go three. Now if I was a shop guy
21 and I went to a customer and said, if I can move you down
22 here a little bit, you might be able to get a little more
23 time off of your next Smog Check, people might go for that.
24 What's in it for me? Well, what's in it for me is I might
25 be able to have my smog machine - I tell it that I've done

1 one of these super-Smog Checks and now I get more credit for
2 bringing down the emissions some more, so there's something
3 in it for me, you know, so far as me getting some - a pat on
4 the back from the State. South Coast was up here talking
5 about getting contracts with Caltrans and getting their
6 machines, their remote sensing machines, over on the freeway
7 onramps and off-ramps, that kind of thing (timer sounds) -
8 with your indulgence, 30 more seconds, Chair?

9 CHAIR LAMARE: I think the way Vic was handling this was we
10 would ask you to hold - hold your thought and then come back
11 after -

12 MR. RICE: Certainly.

13 CHAIR LAMARE: - we've heard everyone else, trying to train
14 people to do three minutes and figure out how to do the
15 three minutes, but we certainly want to hear everything you
16 have to say. Larry?

17 MR. NOBRIGA: Good afternoon. Larry Nobriga and I'm here
18 representing the Automotive Service Councils of California.
19 A couple of thoughts on durability and quality of repairs.
20 It's been a concern as long as I've been coming to these
21 meetings and I'm sure much longer than that. And one of the
22 things that we find is in the Smog Check test-and-repair
23 industry, if we want to replace a catalytic converter, we
24 first have to certify, basically, that that vehicle is in
25 fuel control. Yet a consumer can go to a muffler shop and

1 say, put a cat on. Then they go back and you've got a
2 vehicle that barely passes, the cat's bad in six months
3 because it's not in fuel control. And it might not be a bad
4 idea to see if we can implement some kind of a program where
5 if a cat is going to be replaced for compensation, that that
6 vehicle first has to be certified that it is in fuel
7 control.

8 CHAIR LAMARE: Could you explain?

9 MR. NOBRIGA: Fuel control, anything that - in California,
10 basically, 80 and newer, the computer is controlling the
11 air/fuel mixture. If our air/fuel mixture is bad, let's say
12 the O2 sensor has gone bad, it's running excessively rich,
13 it's going to take out a catalytic converter in a short
14 period of time. So in the smog test-and-repair business, I
15 have to make sure that car is in fuel control, the computer
16 is capable of maintaining the correct air/fuel mixture for -

17 CHAIR LAMARE: In fuel control, the computer is capable of
18 managing the air/fuel ratio.

19 MR. NOBRIGA: Right, before I can sell that consumer a catalytic
20 converter. They can go down to a muffler shop, tell the
21 muffler shop to slap one on, the muffler shop slaps the
22 cheapest thing on they possibly can, they go back and they
23 pass their smog test, maybe barely. Like Bud says, the
24 machine is nothing more than a go/no-go gauge, all right?
25 Our feeling is that by having to certify fuel control, many

1 of these repairs will be more durable and a better quality.
2 That's the thing there. The other thing, we've got many
3 members who, for whatever reason, don't want to be part of
4 the Smog Check Program, yet they are experts within their
5 market. Maybe they're exotics, maybe they're carbureted
6 vehicles that people can't get fixed properly, and it might
7 not be a bad idea to start including some of these shops
8 somehow within a program so they can legally do Smog Check
9 repairs properly.

10 CHAIR LAMARE: We need more discussion on that one, so maybe we
11 could plan some of that, Rocky. Thank you for those
12 suggestions. Anything else? Now, let's return to Bud Rice.

13 MR. RICE: Thank you for your indulgence. Again, just to
14 refresh, I was talking about the freeway onramps and off-
15 ramps and using the remote-sensing machines. I'm still
16 waiting to see if it works and at the point where we've got
17 a report that says that it works, now you want to go spend
18 some money to maybe try to implement something. Okay, now,
19 like - I can sit down and bite my lip a little bit. But at
20 the point where you don't even know if it works and you're
21 going to start spending a bunch of money on it and basing
22 programs off of it, I've got a problem with that one, I just
23 do. The last thing on my list is -

24 CHAIR LAMARE: You have a problem with pilot programs?

25 MR. RICE: Well, I have a problem with pilot programs, but let's

1 do a pilot program and they've had one and they've had
2 studies with - the ARB have had studies on it and we've
3 never seen anything about how it works. Now one thing
4 that's interesting is how numbers get moved around. At the
5 point where a test-only station has a failure rate of this
6 and a Gold Shield has a rate of this, and a regular old
7 test-and-repair shop has a failure rate of this, and if
8 there's just a few percentage points between them,
9 everybody's throwing their hands up and screaming and
10 yelling. Well, if in the end, the false failure rate of
11 remote sensing is something like 12 percent or 18 percent.
12 Everybody seems happy with that, that seems fine. Well, I
13 just don't see how those numbers add up. So let's get
14 something that works, let's make sure that it works before
15 we make the basis of a whole other program around that.

16 CHAIR LAMARE: Well, I think the idea there is that the South
17 Coast Air District is trying to identify the very worst
18 polluters that are actually on the road and they're using a
19 measurement tool that will identify those most-emitting
20 light-duty vehicles reliably, and then they're offering a
21 voluntary incentive to those specific owners, so it has
22 nothing to do with whether those owners pass or don't pass
23 Smog Check, right? It is not a Smog Check Program, so it's
24 not in competition with Smog Check. It's something that's
25 off-cycle with Smog Check.

1 MR. RICE: Sure, let's just see if it works. That's my whole
2 standpoint. Let's just -

3 CHAIR LAMARE: Let's get something happening there, right.

4 MR. RICE: All right. And then finally, just a quick one,
5 Rocky, for you. I just heard some scuttlebutt that there
6 are web questions coming in and I don't remember us asking
7 about web questions for a while, but if -

8 CHAIR LAMARE: Thank you.

9 MR. RICE: - coming through -

10 CHAIR LAMARE: Thank you.

11 MR. RICE: All right. Thank you very much for your time.

12 CHAIR LAMARE: Do you have questions?

13 MR. CARLISLE: I just checked, there are none so far.

14 CHAIR LAMARE: Okay, so if anybody on the web is trying to email
15 us and not getting through, we need you to talk to our
16 Executive Director on the phone after this meeting or
17 tomorrow and get that clarified. Randall Ward?

18 MR. WARD: I wasn't going to say anything, Madam Chair, but it's
19 too early and we can't leave yet. A concern that I have and
20 I know a number of the members of industry is sharing - and
21 again, Randall Ward, Executive Director of California
22 Emissions Testing Industry Association, is licensing. And
23 it has a lot to do with who's in business. We've all seen
24 the schedule of failure rates and we've seen the station
25 performance by violations and the variety of things you use

1 to try to measure the good, bad, and the ugly in this
2 program, but to a great extent, the Bureau is limited in
3 their ability to gain information which, if maybe additional
4 information was collected at the time the license was
5 issued, they'd be in a much better position to initiate
6 enforcement efforts, because I know in many cases they have
7 been frustrated. So it might be worthwhile to focus a
8 little bit on really the mix, the population mix, in the
9 licensing structure. I'd like to hear Dennis' comments as
10 well because it's a subject he and I have spent some time
11 discussing and clearly Roger and I. But clearly - and it's
12 a very important issue. Thank you.

13 CHAIR LAMARE: Thank you, Randy. I like that idea. I'm
14 intrigued by a discussion that we had at one time about
15 licenses versus contracts for managing Smog Check test-only
16 and test-and-repair stations. And maybe sometime in the
17 next year, we'll be able to bring forth a full-blown
18 discussion of why it is we're working with licenses and
19 whether the criteria for issuing and renewing licenses needs
20 to be updated. Two questions for legal counsel - our legal
21 counsel has now gone, so I think this happened at an earlier
22 meeting where by the time we got the question, the person it
23 was address to was not here. I would like to take these
24 questions then and pass them to our legal counsel and have a
25 report back from you at our next meeting.

1 MR. CARLISLE: Not a problem. There's several other questions
2 here, too.

3 CHAIR LAMARE: There are other emails?

4 MR. CARLISLE: Yes.

5 CHAIR LAMARE: Are they all from Len? No, Kevin Flanagan, Len
6 Trimlett, Kurt Hepler (phonetic).

7 MR. CARLISLE: Gideon, you're popular now. That's it, I'm
8 sorry.

9 CHAIR LAMARE: Well, you can forward that to Gideon. So were
10 there any questions here that we can answer now at the end
11 of - during our period of public comment?

12 MR. CARLISLE: No, those are the only emails.

13 --oOo--

14 CHAIR LAMARE: And so I feel very up in the air about what are
15 we doing with our research budget and I think it's - given
16 the discussion that we already had, that it's too awkward to
17 try to construct something up here. We need specific
18 proposals and if we have to meet next month to deal with
19 specific proposals, we'll have to do that in order to get
20 the money spent.

21 MR. CARLISLE: Madam Chair, if I may, maybe we should schedule a
22 meeting with yourself, and maybe one other Committee Member,
23 if somebody else wants to join us, and myself, and we can
24 talk to ARB once again about this issue. We've met in the
25 past about using Sierra Research funds for some of the

1 analysis, but maybe we can nail some of this down.

2 CHAIR LAMARE: I also think it might make sense to meet in April
3 and then not meet in May and since John's not going to be
4 here in May, and if there is some work that we can do in
5 which would be allocating our remaining budget for research
6 purposes and if there are other reports that we need to have
7 for these committees to be working on, then we could
8 usefully meet in April and then take a break and work on our
9 committees.

10 MR. CARLISLE: Okay.

11 CHAIR LAMARE: Gideon?

12 MEMBER KRACOV: Madam Chair, and then the issue of - I'm not
13 sure how you want to phrase it, but the issue of research
14 monies would be a future agenda item in April?

15 CHAIR LAMARE: In April, yes. So we sort that out and get even
16 more focused on our committee reports. Not to discourage
17 you from working on committee reports between now and then
18 or getting your thoughts more organized, talking to each
19 other. Let's try to get some work on the committee reports
20 done between now and April, but in April we can allocate
21 monies for research and get some feedback from - more
22 specific feedback from Rocky. All right? Any other
23 comments or questions from Members of the Committee? All
24 right, well, we will stand adjourned.

25 - MEETING ADJOURNED -

TRANSCRIBER'S CERTIFICATION

This is to certify that I, TERRI O'BRIEN, transcribed the tape-recorded public meeting of the Bureau of Automotive Repair dated March 27, 2007; that the pages numbered 1 through 136 constitute said transcript; that the same is a complete and accurate transcription of the aforesaid to the best of my ability.

Dated April 6, 2007.

Terri O'Brien, Transcriber
Foothill Transcription